



BOARD OF ADJUSTMENT

VIRTUAL MEETING AGENDA

**Thursday, July 9, 2020
4:30 p.m.**

- *Pledge of Allegiance*
- *Roll Call*

Regular Agenda Items

1. Minutes: Approval of the June 11, 2020 meeting minutes.

2. BOA 2020-05: Consideration and action on a request for a 30-foot variance to the intermittent stream setback of 50-feet from the high water mark, at 840 North Yacht Club Dr., Eden, UT.

Applicant Representative: David Anhder; **Staff Presenter:** Scott Perkes

3. Adjournment

HOST: Scott Perkes

Join Zoom meeting

<https://us02web.zoom.us/j/84359696154>

Meeting ID: 843 5969 6154

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The Virtual meeting will be held via Zoom Video Conferencing. Please access the Virtual meeting by navigating the web link above.

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

Minutes of the Board of Adjustments meeting of June 11, 2020, held via Zoom Video Conferencing, at 4:30 p.m.

Members Present: **Laura Warburton-Chair**
 Bryce Froerer-Vice Chair
 Phil Hancock
 Rex Mumford

Staff Present: Rick Grover, Planning Director; Steve Burton, Principle Planner; Scott Perkes, Planner I; Chris Crockett, Legal Counsel; Marta Borchert, Secretary

- **Pledge of Allegiance**
- **Roll Call**

1. Approval of minutes for April 16, 2020. Chair Warburton moves to approve minutes as presented. Motion carries (4-0)

2. BOA 2020-04 – Consideration and action on a request for an 11-foot variance to the 20-foot side setback, and a request for a 19-foot variance to the required 30-foot rear setback for a future residential dwelling in the FR-1 zone.

Applicant: Doug Neilson, Staff Presenter: Scott Perkes

Scott Perkes states that there is a little over a half an acre in total area. The Hermitage subdivision was platted in 1921. Doug Neilson is the applicant and the owner owns 4, 5, 6, and additional land on a separate parcel to the East. They are a couple of existing structures on both lots. Lots 5 and 6 are the parcels being looked at for modification. He notes they are looking to submit a subdivision application that it will be a joint application concerning these variances. They are proposing to bring some land from an additional piece into the subdivision boundary and reconfigure some of the lot lines. This will allow for greater separation to improve the lot width of the lots. The variance that is being proposed is for the rear, side setbacks. There is an additional building that would be torn down. The extra land on the parcel to the West is being pulled in to give additional area. He notes that they are not reducing the lot to get extra areas. Overall the request for a reduction for the rear setbacks. The rear setback in the FR- 1 zone is 30 ft. They are looking to reduce that by 19 ft to allow for and 11 ft rear setback. Concerning the side setback, it is in the FR-1 zone which is 20 ft and they are asking for a setback of 8 ft. In the amended subdivision, it will be labeled as lot 3. He notes that what is unique about this lot is the shape and configuration, they are both nonstandard and nonconforming. The nonconforming is that the area is smaller than the zoning requirements. The shape is unique because it doesn't have a traditional side yard or rear yard. Since it is a nonconforming lot and it is irregular in shape the code does allow for the side yard setbacks to be reduced.

Doug Neilson 301 Ogden Canyon, states that there are 3 existing dwellings, and two will be torn down to make room for a new structure. He notes that the big issue is the rear setback.

Scott Perkes states that staff recommends approval based on the findings listed in the staff report. In addition to the requirement, the approval would be conditioned on the subdivision plat being recorded.

Chair Warburton opens the public comment.

Christen Mitchell 307 Ogden Canyon, there had previously been some debris discarded in the river by the previous property owner in an attempt to change the river line. She notes that this was before her living in the area. She asks how this was reflected in the current drawing. She asks if the current plat is accommodating the change in the riverbank. Has that been addressed in how the replating is happening and the setbacks?

Mr. Perkes states that this question would be better addressed when the application goes before the Planning Commission for subdivision approval.

Chair Warburton closes the public comment.

MOTION: Bryce Froerer moves to approve the 11-foot variance from the side yard setback and a 19-foot variance from the rear yard setback in the FR-1 zone. This recommendation is conditioned upon the approval of an associated subdivision amendment to the Hermitage Block 10 subdivision. Rex Mumford seconds. Motion carries (4-0)

3. BOA 2020-03 – Consideration and action on a request for a variance to the parcel area requirements for the AV-3 zone.

Applicant: Jack Clawson, Staff Presenter: Tammy Aydelotte

Steve Burton states that he is presenting in place of Tammy Aydelotte. The Planning Division has received a request for a variance to the lot area requirements of the A-V3 zone. This property is located at 3641 N Rivers Edge Road. The applicant has stated that the hardship and the special circumstances are the Utah Power and Light Corridor property that is between the two. Looking at lot 2 of the future subdivision, one side of it is 1.84 acres, and the other is 1.16 acres. AV-3 zone requires a minimum of 3 acres in a lot. If you add the pieced two together, it meets that the 3-acre minimum. It also requires 150 ft of frontage, this requirement is also met. These things are typically considered. He notes that the Planning Office had issues approving this item because it does not meet the lot area requirement of 3 acres unless there is some variance granted. Staff recommends approval of the variance to the lot area requirements of the AV-3 zone, based on the proposed lot 2 layouts, including one portion with 1.84 acres and the other portion with 1.16. The recommendation is based on the applicant's demonstrated compliance with the variance criteria outlined in LUC 102-3-4(b). Mr. Burton goes over the variance criteria as listed in the Staff Report. Staff feels that granting this request would permit substantial justice to all the current owners to allow them to develop their land following the existing zoning.

Mr. Mumford asks if there is access to the smaller parcel underneath the power lines. Are they connected by a trail or a road? Mr. Burton states he is not aware of existing access to the lot. There is a possibility that they would not be able to build anything on the backlot. He notes that he's not aware if they have any legal access to that lot. Mr. Burton states that this is a good question for the applicant.

Chair Warburton asks if there are any more questions from the Board. There are none.

Jason Peterson states that he is representing the Clawson's. There is not a trail or road leading to smaller parcels. About 20 years ago the Clawson's had a verbal agreement with Rocky Mountain Power and they were able to farm that area as one piece with a verbal agreement. 2 years ago a neighbor that also adjoins the Rocky Mountain Power Corridor made a lease for that strip. When that lease was made there was a fence put up on the north boundary and a gate has been put in for the Clawson's. The area is owned by Rocky Mountain Power and is being farmed by another property owner. In the future, there is a possibility that it might become blocked and there might not be access it would be landlocked. Concerning the 1.84 acres, it should not affect the other residents, if it was sold in the future the new owners would have to be aware, there may be some strings attached to that. Currently, it is accessible.

Chair Warburton asks if there are any questions for Mr. Peterson.

Bryce Froerer asks if is this something that has been done before? Where one lot is separated by a utility easement. Director Grover state this is unusual. Lots are typically all contiguous and this is the reason that it was brought before the Board. He notes this

situation is unusual because of the utility easement, it could meet the spirit of the code with the variance, but typically lots are contiguous. He states they don't want to make this a norm with the utility easement could be noted as a hardship.

Kari Gutiss 3129 N Rivers Edge Road, states she is concerned if North Rivers Edge Road is going to be the only access.

Nisha Riggs, asks if they are talking about dividing 1 lot into 2, and therefore there would only be one additional home at the end of the street. Proposed lot 2 would only have 1 home on it. She wants to make sure only one home is going in on the parcel.

Rodney Evan 3802 N Rivers Edge Rd, notes that this does not qualify for a variance underneath the power lines. This covers a lot of area through the valley. He states that he is concerned this will set a precedent. This concerns him as a resident in the area but also as a Valley resident. He notes that he concerned for the Valley piece of that. He and some of the neighbors believe that the power line is not a valid reason to split the property. The property is going to be useless and it is going to sit out there will be all kinds of issues with Rocky Mountain Power. The 1.16 acres that are separated will have no access. It offers no value to the area. It doesn't offer any pathways, recreation, or animal sanctuary. It should not be granted because of the Valley and the Area.

Chair Warburton closes the public comment.

Jason Peterson states that concerning Kari's question, they have spent many months working with the County to try and come up with a proposal to be able to build a home for the Clawson's on the proposed lot number 1 of the Subdivision. There were 2 possible options for access to the property and the Planning Staff felt that this proposed subdivision proposal was the best scenario. He states that this will be the primary access to this parcel. There is secondary access on a dirt road coming up River Road. The County did not want that to be alternative access, they wanted it to have frontage like all the other new lots. This is why the proposed extension to what was already a stubbed road, Rivers Edge even though there was a cul de sac that was there. The primary access is Rivers Edge road as proposed and as recommended for the County. Concerning the second question about lot 2 the lot in question for the variance, it can only be one home. The reason it is split and the reason it is proposed this way is that for a new lot in Ogden Valley there is a 3-acre minimum. This was a 13-acre piece originally owned by the Clawson's. The Clawson's have owned this piece for 20+ years. It is one parcel and it has one parcel number. The whole 13 acres were split and that parcel was created by the utility easement. Only one home can be on the parcel. The parcel was already split, it no different than what it was. The only difference is that they are trying to create 2 new lots. One of which will be split like the original parcel. Even though it doesn't fall under the County's ordinance it is a unique situation, it was already split as the 13-acre parcel. He states that it does not set a precedent for everybody else, there are no other pieces that are split like this Concerning the inaccessible piece of the parcel. There is now an agreement with another property owner and the Clawson's that are currently farming that whole triangle that is split on the other side. The Clawson's have given them the right and the future property owner may or may not want to make such arrangements, it might work out in their favor to make that kind of arrangement. He states that that parcel is being used as it was intended to be used, and as listed in the Ogden Valley General Plan which is agriculture. He does not feel that it will negatively affect the Ogden Valley.

Mr. Burton states that there seemed to be some confusion, this is not a subdivision application. This is a variance application so that the applicant can submit a subdivision application. When a subdivision application submitted a subdivision application notices will be sent out to property owners within 500 ft. A subdivision application would go to the Planning Commission or the Planning Director.

Kari Gutiss 3129 N Rivers Edge Road, states that she is confused. The applicant says that only one home is going to be built, but Mr. Burton stated there was a possibility of a subdivision. A subdivision implies multiple homes. Chair Warburton states that they can only put a home on a 3 acres parcel.

Chair Warburton closes the public comment.

Mr. Mumford states that this is not a utility easement the area that separated the two parcels is owned by another entity. He states that this would like owning a parcel in one location in 1 area and another in another area and trying to put them together to make 3 acres. If it was an easement that would be different.

Mr. Froerer states that he would not want to establish a precedent. He is not comfortable having 2 pieces of land on 1 lot.

Chair Warburton notes that if the variance is not granted the applicant still has enough room to build a house. Mr. Peterson states that if the variance is not granted they cannot have a second lot. Originally they were going to try and have a 1 lot subdivision. The owners wanted the full road extension, and to get frontage on the 1 lot the County said they would have to put in a full road at the owner's expense. The purpose of the request for a variance was to help offset that, it would allow the Clawson's the ability to sell an additional building parcel to someone. This can not be done without 3 acres. This would allow for the front portion to be farmed. The parcel number is the same for the 13.39 acres which are split. As far as he can tell this is the only parcel that is split this way, he does not feel that it will set a precedent. He feels that the staff helped them come up with something that was well thought out. It is a reasonable request to be able to obtain the frontage. The original parcel was split and was an approved building lot. The split was done years ago. He states that it is a unique hardship.

Director Grover states that the main reason it was brought before the Board of Adjustments is that at one time it was all one piece, the Rocky Mountain Power came through and separated it. He adds that there was one piece on one side of the Valley and another on the other side, it would not have been brought before the Board of Adjustments. It was all one piece at one time and was then separated by a utility corridor. He notes that he understands the concern and they do not want to set a precedent in the Valley. This is not how development should happen but because of the unique situation, it was brought before the Board of Adjustments.

Mr. Froerer asks when the Rocky Mountain Power bought the Utility Corridor. Chair Warburton asks if it was after the Clawson bought their property. She asks if it was taking. Mr. Burton states that he is not sure. The Clawson might have that information. Mr. Mumford states that he believes that it was taken in 1962. He adds that he is not sure if that is when Rocky Mountain Power acquired the land. Mr. Peterson states that the Clawson's bought the property as a whole piece, but it was already separated by the Utility corridor. At the time they purchased it Rocky Mountain Power told them they could farm the land and have access, the corridor was just to carry the overhead power lines. For 20 years they farmed and had cattle on the land until 2 years ago a neighbor went and got a lease.

MOTION: Bryce Froerer moves to deny consideration and action on a request for a variance to the lot area requirements of the AV-3 zone. Based on the findings that it does not meet the intent of the Ogden Valley General Plan and does not meet the requirement to have 3 contiguous acres that would allow a home to be built. Phil Hancock seconds. Motion (4-0)

Director Grover states that the Board handled the item very well. The staff was trying to be creative because it was one contiguous piece. This is an odd situation that typically doesn't occur. Chair Warburton notes that the applicants stated that they felt some of the requirements from the County were steep. She asks if anything can be adjusted without doing a variance. Director Grover states

that there will be some dialogue to look at possible scenarios that might work for the applicant. He added that the County is sympathetic to development, and wants to preserve development rights. Mr. Froerer states that in looking at this he wondered if Rocky Mountain Power might consider granting an easement.

Mr. Crockett states that if the Board member felt that granting the variance was not in conformity with the General Plan this is a valid reason to deny, the request. It is one of the criteria that have to be met to grant a variance.

Adjournment-5:43 pm

Respectfully submitted,

Marta Borchert

DRAFT



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a 30-foot variance to the 50' natural ephemeral stream corridor setback.

Agenda Date: Thursday, July 09, 2020

Applicant: David Anhder (Applicant), Larkin Revocable Trust (Owner)

File Number: BOA 2020-05

Property Information

Approximate Address: 840 N Yacht Club Dr., Eden, UT

Project Area: 1.57 acres

Zoning: Forest Valley (FV-3)

Existing Land Use: Vacant Developable Lot

Proposed Land Use: Residential

Parcel ID: 20-058-0003

Township, Range, Section: T6N, R1E, Section 10, NE

Adjacent Land Use

| | | | |
|---------------|-------------|---------------|-------------|
| North: | Residential | South: | Residential |
| East: | Residential | West: | Residential |

Staff Information

Report Presenter: Scott Perkes
sperkes@co.weber.ut.us
801-399-8772

Report Reviewer: SB

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 5 (Forest Valley 3 Zone)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands) Section 2 (Stream Corridors, Wetlands, and Shorelines)

Development History

On June 6, 1994, the Radford Hills Subdivision No.2B plat was recorded. The subject property of this application is depicted as lot 21 of this subdivision (see **Exhibit B**).

On December 5, 2005, the Board of County Commissioners adopted Ordinance 2005-19, which established river and stream corridor setback requirements (see **Exhibit E**).

This request to the Board of Adjustment was submitted on June 8, 2020 (see **Exhibit A**).

Background and Project Summary

The applicant is requesting a 30-foot variance to the required 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home and potential accessory structures on the lot. The unique circumstance on this property is a seasonal/intermittent stream running through the lot, shown within a 20-foot wide drainage easement on the Radford Hills No. 2B subdivision plat.

The Land Use Code (Sec. 104-28-2(b)(1)), states the following regarding ephemeral stream corridor setbacks:

No structure, accessory structure, road, or parking area shall be built within the required setback from a river or stream as measured from the high water mark of the river or stream. The high water mark shall be determined by the Weber County engineer. The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native vegetation and wildlife along the river or stream...

C. Structures, accessory structures, roads, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.

This section of code was first implemented in 2005 through the adoption of Ordinance 2005-19. For reference, the Radford Hills Subdivision No. 2B was recorded in 1994. As such, this subdivision was originally designed to allow adequate width for residential building footprints and did not contemplate additional setback requirements beyond the depicted drainage easement. Only one other lot in the subdivision (lot 28) is affected by the stream. The home on lot 28 was built in 1996 prior to the implementation of the required ephemeral stream setback. Lot 28 is also wider than most lots in the subdivision. Lot 21 is similar in width to most other lots in the subdivision (with the exception of lot 28), but is the only other lot encumbered by the stream.

Should this variance request be granted, the resulting setback would exceed the existing 10-foot from centerline drainage easement by leaving a 20-foot setback from the high water mark.

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. In order for a variance to be granted it must be shown that all of the following criteria have been met:

- a. *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 Land Use Code.*
 1. *In determining whether or not literal enforcement of the land use code 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.*
 2. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not 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.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice done.*

Listed below is staff's analysis:

- a. Literal enforcement of the 50-foot ephemeral stream setback would limit the placement of a single-family detached home on the lot.
- b. The special circumstance that exists on the property is the location of the seasonal stream and its required 50 ft. setback from high water marks. As mentioned above, this setback requirement was adopted 11 years following the recording of the associated Radford Hills No. 2b subdivision. As such, the lot was not designed during subdivision to accommodate additional setbacks to the ephemeral stream. The stream's 50-foot setbacks from high water marks, coupled with the required structural setbacks of the FV-3 zone, significantly reduces the lot's developable width (see **Exhibit C**). Thereby limiting the placement of a single-family home as compared to the placement of homes on other residential lots in the subdivision.
- c. Granting the variance would allow the owner of the parcel to build a single-family home in a location on the lot that would be similar to adjacent residences and other single-family lots found in the FV-3 zone.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and future residential development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. The applicant has gone through the proper channels in applying for a variance. The proposal still observes the 20 ft. drainage easement, as was originally required at the time of subdivision.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FV-3 Zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Staff Recommendation

Based on the findings presented in the analysis listed above, staff recommends approval of a 30-foot variance to the 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home on property located at 840 N Yacht Club Dr. in Eden.

Exhibits

- A. Variance Application & Narrative
- B. Radford Hills No. 2B Dedication plat
- C. Site Plan Showing Setbacks
- D. Ogden Valley Sensitive Lands - Stream Corridor Map
- E. Ordinance 2005-19 (Excerpt)

Area Map

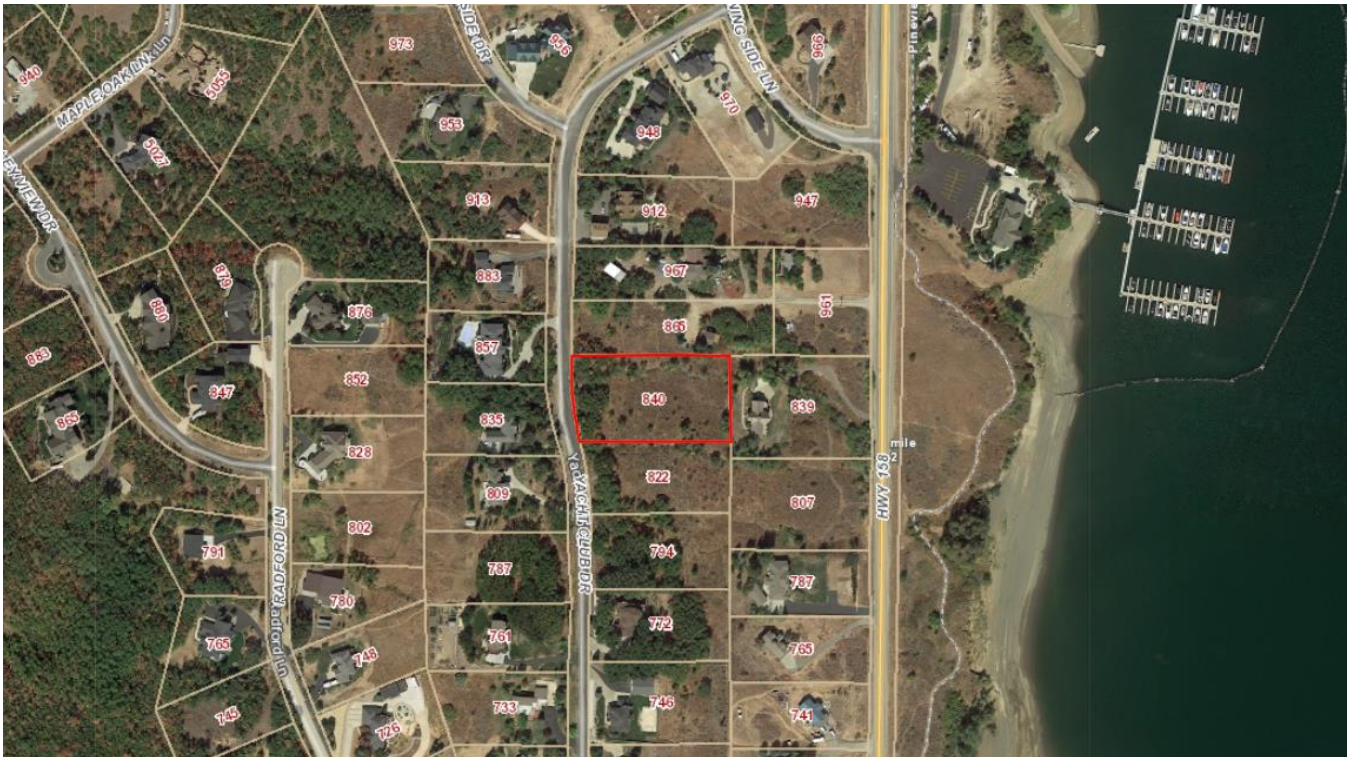


Exhibit A: Variance Application & Narrative

| 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 <i>6/8/2020</i> | Fees (Office Use) | Receipt Number (Office Use) | File Number (Office Use) |
| Property Owner Contact Information | | | |
| Name of Property Owner(s) Larkin Revocable Trust, LaRea Larkin, trustee | | Mailing Address of Property Owner(s) PO Box 962 Eden, UT 84310 | |
| Phone 801-245-3260 | Fax | Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail | |
| Email Address mtnphotoeden@gmail.com | | | |
| Authorized Representative Contact Information | | | |
| Name of Person Authorized to Represent the Property Owner(s) David Anhder | | Mailing Address of Authorized Person 2232 N. 525 E. North Ogden, UT 84414 | |
| Phone 801-243-1453 | Fax | Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail | |
| Email Address david@davidanhder.com | | | |
| Appeal Request | | | |
| <input checked="" type="checkbox"/> A variance request: <u> </u> Lot area <u> </u> Yard setback <u> </u> Frontage width <input checked="" type="checkbox"/> Other: <u>Drainage easement/setback</u> | | | |
| <input type="checkbox"/> An Interpretation of the Zoning Ordinance <input type="checkbox"/> An Interpretation of the Zoning Map <input type="checkbox"/> 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 <input type="checkbox"/> Other: _____ | | | |
| Property Information | | | |
| Approximate Address 840 N Yacht Club Drive Eden, UT 84310 | | Land Serial Number(s) 200580003 | |
| Current Zoning FV-3 | | | |
| Existing Measurements | | Required Measurements (Office Use) | |
| Lot Area 1.57 AC | Lot Frontage/Width 201.60 feet | Lot Size (Office Use) | Lot Frontage/Width (Office Use) |
| Front Yard Setback 30 feet | Rear Yard Setback 20 feet | Front Yard Setback (Office Use) | Rear Yard Setback (Office Use) |
| Side Yard Setback 20 feet | Side Yard Setback 20 feet | Side Yard Setback (Office Use) | Side Yard Setback (Office Use) |

Applicant Narrative

Please explain your request.

This request is to ask for a 30 foot variance to the 50 foot setback from the high water mark of the seasonal stream on the Northern portion of the lot.

Thus the requested setback would be 20'(feet) from each side of the stream instead of 50 feet. The easement will not change.

See Attachment A

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.

See Attachment A

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:

See Attachment A

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

See Attachment A



Variance Request (continued...)

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

See Attachment A

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

See Attachment A

Property Owner Affidavit

I (We), Larae Larkin, 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.

Larae Larkin (Property Owner) _____ (Property Owner) _____

Subscribed and sworn to me this 8 day of June, 2020.



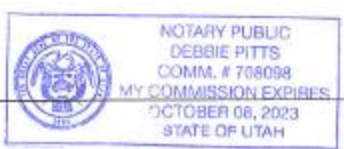
Debbie Pitts (Notary)

Authorized Representative Affidavit

I (We), Larae Larkin, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), David Anholder, 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.

Larae Larkin (Property Owner) _____ (Property Owner) _____

Dated this 8 day of June, 2020, personally appeared before me _____ the signers) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



Debbie Pitts (Notary)

"A Hachman A"

Weber County Board of Adjustment Application

Applicant Narrative

Radford Hill NO 2B plat map (dated May 1994) shows a drainage easement, +/- 10 on each side of the drain, from the West to East borders of the lot commencing 70 feet South from the NW corner. The new ~~code~~ ^{setback} requires the distance from the drain to be +/- 50 feet. This request is to keep the drainage easement requirement as the subdivision was originally platted and approved, with a +/-10 foot easement, *and only change the setback.*

Variance Request

1. Enforcement of the new, 50 foot requirement would leave only 61 feet of buildable width within 60 feet of the frontage of the lot. This would severely limit the construction of a home similar to ones in the subdivision and make this building lot much less practical.
2. The drainage easement is located only on lots 21 and 28 (this lot borders on the East side). The easement is the result of a drainage culvert under N. Yacht Club Drive that empties onto lot 21, 70 feet from the NW corner of that lot. It flows down (East) through lot 28 before it eventually empties into Pineview reservoir.
3. The new +/-50 foot easement would severely reduce the buildable width of the lot compared to the other lot in the area. The only other lot (28) with this drainage easement is wider and already has a home on it.
4. The variance will not affect the general plan of the area as the request is to keep the easement as originally platted and approved.
5. It is assumed that the spirit of the change in easement width was to protect the drainage runoff from impacts due to building close to it. This spirit will be maintained as the drainage easement will be maintained as it was originally established. It is the intent of the owner(s) to maintain as much distance from the drainage as possible.

*Seasonal stream - Setback 50'
easement 10'*

Exhibit B: Radford Hills Subdivision No. 2B - Dedication Plat

RADFORD HILLS NO. 2B

PART OF THE EAST HALF OF SECTION 10, T. 6 N., R. 1 E., S. L. B. & M. WEBER COUNTY, UTAH

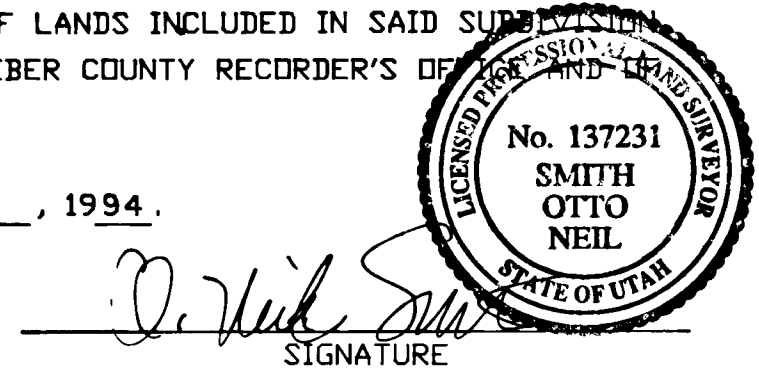
MAY 1994

SURVEYOR'S CERTIFICATE

I, D. NEIL SMITH, A REGISTERED LAND SURVEYOR IN THE STATE OF UTAH, DO HEREBY CERTIFY THAT THIS PLAT OF RADFORD HILLS NO. 2B IN WEBER COUNTY UTAH HAS BEEN CORRECTLY DRAWN TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE FOLLOWING DESCRIPTION OF LANDS INCLUDED IN SAID SUBDIVISION BASED ON DATA COMPILED FROM RECORDS IN THE WEBER COUNTY RECORDER'S OFFICE AND A SURVEY MADE ON THE GROUND.

SIGNED THIS 4TH DAY OF MARCH, 1994.

137231 LICENSE NO.



OWNER'S DEDICATION

WE, THE UNDERSIGNED OWNERS OF THE HEREDIN DESCRIBED TRACT OF LAND, HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND STREETS AS SHOWN ON THIS PLAT AND NAME SAID TRACT RADFORD HILLS NO. 2B AND HEREBY DEDICATE, GRANT AND CONVEY TO WEBER COUNTY, UTAH ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS STREETS, THE SAME TO BE USED AS PUBLIC THOROUGHFARES FOREVER, AND ALSO DEDICATE TO WEBER COUNTY THOSE STRIPS AS EASEMENTS FOR PUBLIC UTILITY AND DRAINAGE PURPOSES AS SHOWN HEREON, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES AND DRAINAGE AS MAY BE AUTHORIZED BY WEBER COUNTY, SUCH DEDICATION SUBJECT TO ALL EXISTING EASEMENTS ON RECORD.

SIGNED THIS 30th DAY OF March, 1994.

RADFORD HILLS CORPORATION - A UTAH CORPORATION

Edward E. Radford, EDWARD E. RADFORD - PRESIDENT

BOUNDARY DESCRIPTION

PART OF THE EAST HALF OF SECTION 10, T. 6 N., R. 1 E., S. L. B. & M.

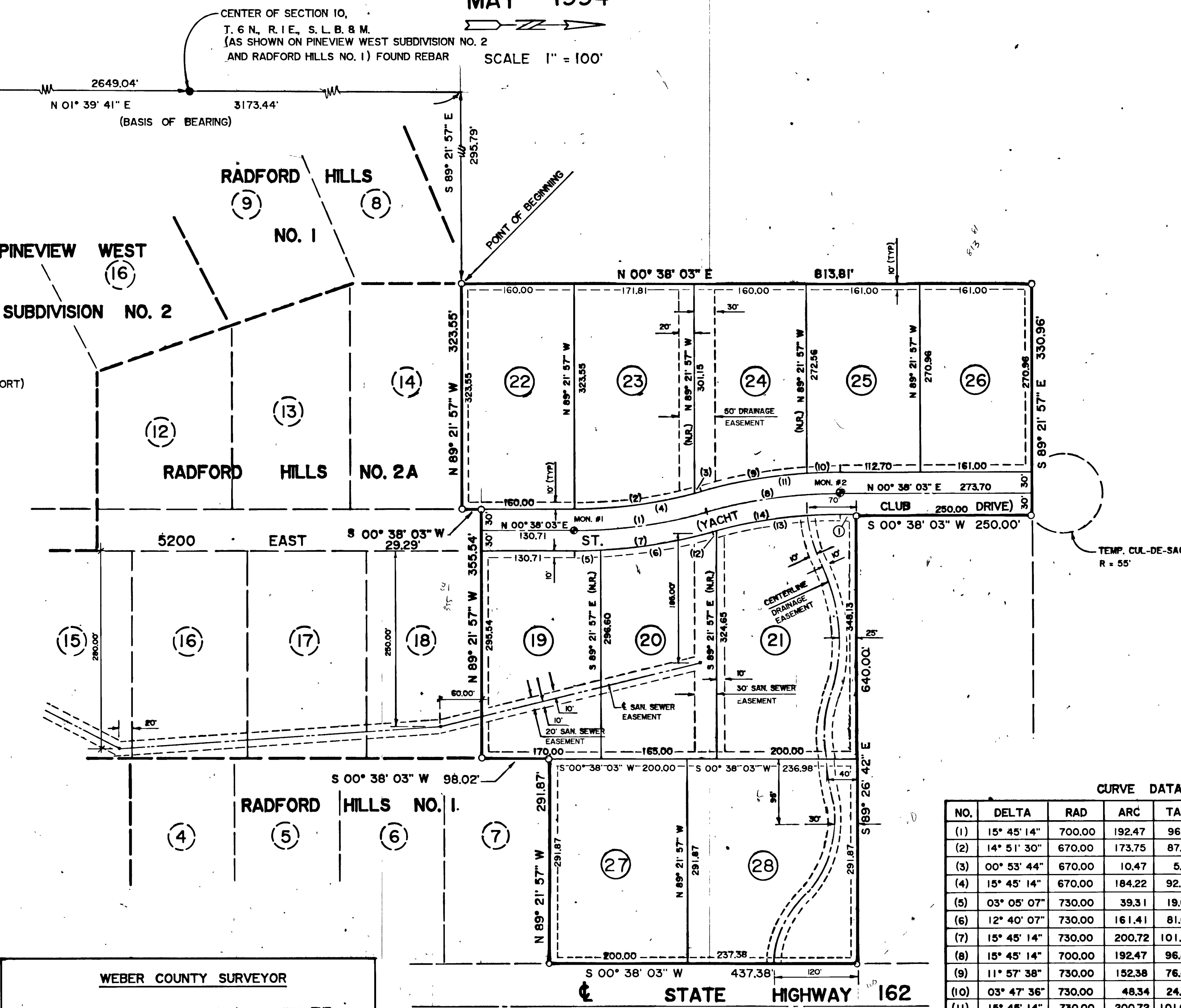
BEGINNING AT THE NORTHWEST CORNER OF LOT 14, RADFORD HILLS NO. 2A, WHICH IS LOCATED N 01° 39' 41" E 3173.44 FEET AND S 89° 21' 57" E 295.79 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 10, T. 6 N., R. 1 E., S. L. B. & M., RUNNING THENCE N 00° 38' 03" E 813.81 FEET, THENCE S 89° 21' 57" E 330.96 FEET TO THE NORTHWEST CORNER OF THE BEVERLY F. PAULSON PROPERTY, THENCE S 00° 38' 03" W 250.00 FEET TO THE SOUTHWEST CORNER OF THE MILTON C. MECHAM PROPERTY, THENCE S 89° 26' 42" E 640.00 FEET TO THE NORTHEAST CORNER OF LLOYD YEATON PROPERTY AND THE WEST RIGHT OF WAY LINE OF THE STATE HIGHWAY, THENCE S 00° 38' 03" W 437.38 FEET ALONG SAID RIGHT OF WAY LINE TO THE NORTHEAST CORNER OF RADFORD HILLS NO. 1, THENCE ALONG THE BOUNDARY LINES OF RADFORD HILLS SUBDIVISIONS THE FOLLOWING FIVE COURSES: N 89° 21' 57" W 291.87 FEET, S 00° 38' 03" W 98.02 FEET, N 89° 21' 57" W 355.54 FEET, S 00° 38' 03" W 29.29 FEET, N 89° 21' 57" W 323.55 FEET TO THE POINT OF BEGINNING.

CONTAINS 13.381 ACRES.

Table with 3 columns: LOT, AREA (S.F.), ADDRESS. Lists lots 19 through 28 with their respective areas and addresses.

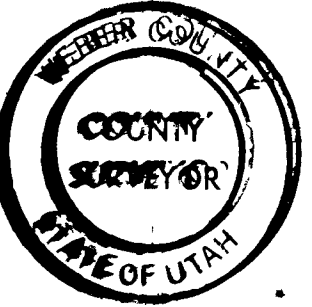
Table with 3 columns: LOT NO., BEARING, DIST. Lists lot 21 with bearing S 00° 38' 03" W and distance 23.70.

Table with 7 columns: NO., DELTA, RAD, ARC, TAN, CHORD, CHORD BRNG. Lists curve data for 14 points.



- NOTES: 1 - 10.00 FOOT UTILITY AND DRAINAGE EASEMENTS... 2 - (N.R.) - NON-RADIAL... 3 - SURVEY CONTROL MONUMENT (S)... 4 - 5/8" REBAR WITH CAP STAMPED "ONESCO INC."...

WEBER COUNTY SURVEYOR. I HEREBY CERTIFY THAT I HAVE INVESTIGATED THE LINE OF SURVEY OF THE FOREGOING PLAT AND LEGAL DESCRIPTION OF THE LAND EMBRACED THEREIN, AND FIND THEM TO BE CORRECT AND TO AGREE WITH THE LINES AND MONUMENTS ON RECORD IN THIS OFFICE. SIGNED THIS 4TH DAY OF May, 1994.



WEBER COUNTY PLANNING COMMISSION. APPROVED BY THE WEBER COUNTY PLANNING COMMISSION ON THE 5TH DAY OF MAY, 1994.

WEBER COUNTY APPROVAL. THIS IS TO CERTIFY THAT THIS PLAT AND DEDICATION OF THIS PLAT WERE DULY APPROVED AND ACCEPTED BY WEBER COUNTY, UTAH THIS 13th DAY OF June, 1994.

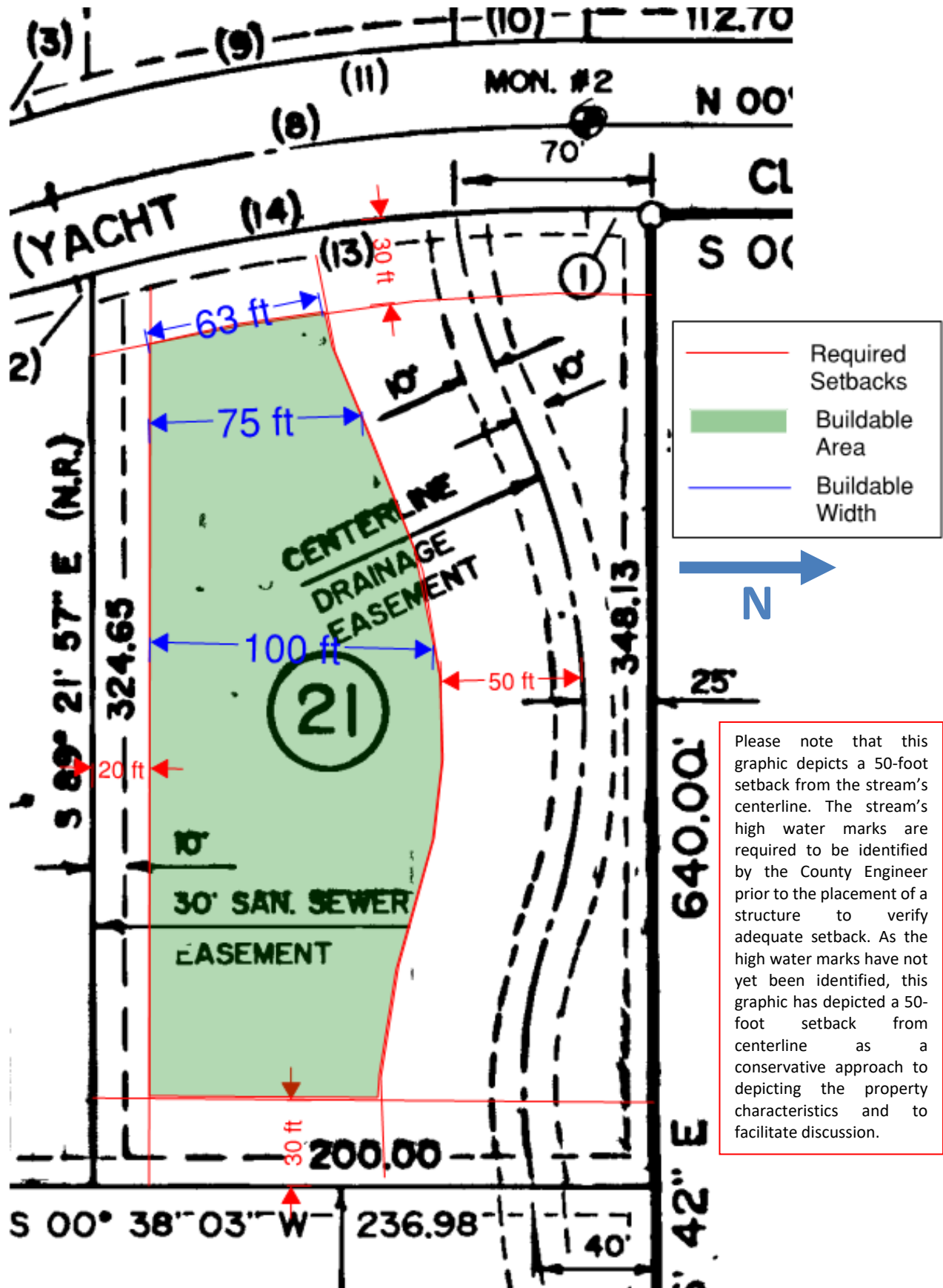
WEBER COUNTY ENGINEER. I HEREBY CERTIFY THAT I APPROVE THE REQUIRED IMPROVEMENT STANDARDS AND DRAWINGS FOR THIS SUBDIVISION AND THE AMOUNT OF FINANCIAL GUARANTEE FOR THESE IMPROVEMENTS. SIGNED THIS 4th DAY OF May, 1994.

WEBER COUNTY ATTORNEY. I HAVE EXAMINED THE SUBDIVISION DOCUMENTS SUBMITTED WITH THIS PLAT AND FIND THEY ARE IN CONFORMANCE WITH THE ORDINANCE REQUIREMENTS NOW IN FORCE AND EFFECT. SIGNED THIS 4th DAY OF May, 1994.

CORPORATE ACKNOWLEDGEMENT. STATE OF UTAH COUNTY OF WEBER. ON THE 30th DAY OF March, 1994 PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID STATE AND COUNTY Edward E. Radford AND AFTER BEING DULY SWORN ACKNOWLEDGED TO ME HE IS/PRESIDENT OF SAID CORPORATION AND THAT HE SIGNED THE OWNER'S DEDICATION FREELY, VOLUNTARILY AND IN BEHALF OF SAID CORPORATION AND FOR THE PURPOSES THEREIN MENTIONED. MY COMMISSION EXPIRES NOVEMBER 30, 1996.

COUNTY RECORDER. ENTRY NO. 1295405. ENTRY NO. 1295405. FILED FOR RECORD AND RECORDED JUNE 16, 1994, AT 11:42 A.M. IN BOOK 38 OF OFFICIAL RECORDS, PAGE 16, FOR EDWARD E. RADFORD. Doug Crofts, COUNTY RECORDER. BY: Karla Baumann, DEPUTY.

Exhibit C: Site Plan Showing Setbacks



Please note that this graphic depicts a 50-foot setback from the stream's centerline. The stream's high water marks are required to be identified by the County Engineer prior to the placement of a structure to verify adequate setback. As the high water marks have not yet been identified, this graphic has depicted a 50-foot setback from centerline as a conservative approach to depicting the property characteristics and to facilitate discussion.

Exhibit D: Ogden Valley Sensitive Lands – Stream Corridor Map

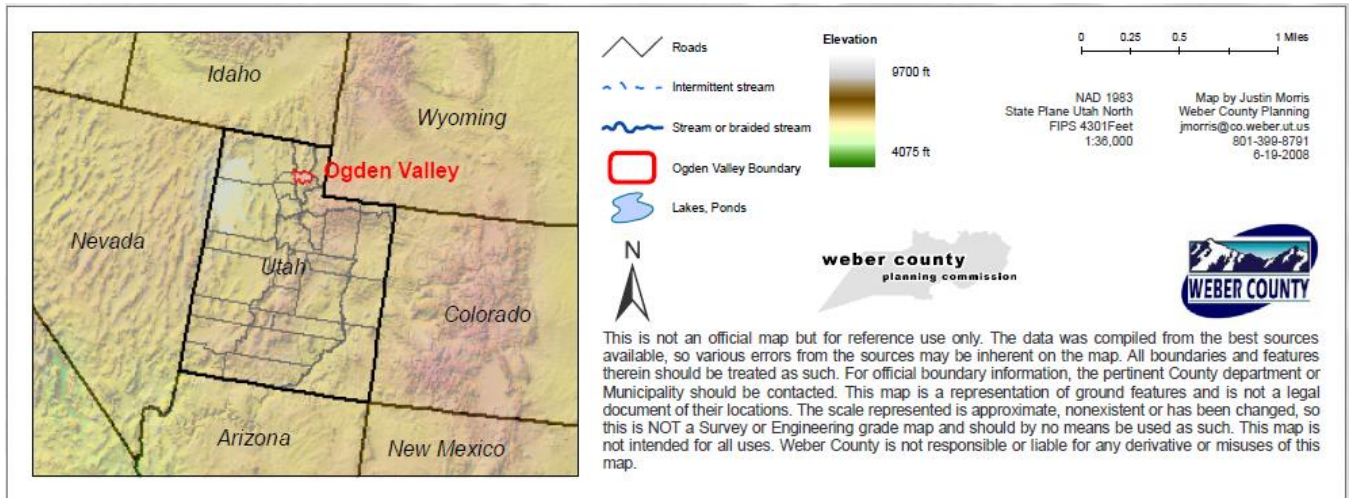


Exhibit E: Ordinance 2005-19 (Excerpt)

Summary of Ordinance No. 2005-19

An Ordinance of Weber County, amending the zoning ordinance by adding Section 23-37 River and Stream Corridors. The new section places setback requirements for building adjacent to year-round and ephemeral streams, with the exception of a segment of the Ogden River below Pineview Reservoir. Was adopted and ordered published the 20th day of December 2005, by the Board of County Commissioners of Weber County, Utah, with Commissioners Bischoff, Cain and Dearden voting aye.

A copy of the complete ordinance is available for public inspection at the office of the Weber County Clerk/Auditor, 2380 Washington Blvd, Suite 320 Ogden, Utah.

Ordinance No. 2005-19

An Ordinance of Weber County, amending Chapter 23 of the Zoning Ordinance by adding Section 23-37, River and Stream Corridor Setbacks.

WHEREAS, Weber County finds that river and stream corridors provide important aesthetic ecological and recreational resources, including wildlife habitat, and the protection of water quality in the County's rivers and streams; and

WHEREAS, these resources are put at risk of being lost or significantly impaired due to land development activities within river and stream corridors; and

WHEREAS, the need to protect river and stream corridors is identified in both the Ogden Valley and West Central Weber County General Plans.

NOW THEREFORE, The Board of County Commissioners of Weber County, State of Utah, Ordain as follows:

The Uniform Zoning Ordinance of Unincorporated Weber County is hereby amended by adding Section 23-37, River and Stream Corridor Setbacks:

CHAPTER 23

SUPPLEMENTARY AND QUALIFYING

- 23-1. Effect of Chapter
- 23-2. Lots in Separate Ownership
- 23-3. Yard Space for One Building Only
- 23-4. Every Dwelling to be on a "Lot"
- 23-5. Separately Owned Lots - Reduced Yards
- 23-6. Sale or Lease of Required Space
- 23-7. Creation of Lots Below Minimum Space Requirements
- 23-8. Yards to be Unobstructed - Projections Permitted into Required Yards
- 23-9. Wall, Fence, or Hedge May be Maintained
- 23-10. Area of Accessory Building
- 23-11. Deleted Section - 2002-9
- 23-12. Exceptions to Height Limitations
- 23-13. Minimum Height of Main Building
- 23-14. Deleted Section - 2002-9
- 23-15. Clear View of Intersecting Streets
- 23-16. Animals and Fowl
- 23-17. Water and Sewage Requirements
- 23-18. Effect of Official Map
- 23-19. Signs and Lighting
- 23-20. Lots and Dwellings on Private Rights-of-Way, Special Provisions

| | | |
|--------|--|---------------|
| 23-21. | Required Building Setb. from Designated Collector or Arterial Street | |
| 23-22. | Group Dwelling Special Regulations | |
| 23-23. | Zero Side Yards | |
| 23-24. | Dish Antennas | |
| 23-25. | Towers | |
| 23-26. | Residential Facility for Persons with a Disability - Facility Requirements | 17-87 |
| 23-27. | Residential Facility for Troubled Youth - Facility Requirements | 6-92 |
| 23-28. | Residential Facility for Elderly Persons - Facility Requirements | 12-91 |
| 23-29. | Large Accessory Buildings | 14-91,19-04 |
| 23-30. | Building in Newly Approved Subdivisions and Planned Residential Unit Developments | 14-91, 2002-9 |
| 23-31. | Deleted | |
| 23-32. | Family Swimming Pool | 14-92 |
| 23-33. | Building on Dedicated Streets or Public By Right of Use Roads which are below County Improvement and/or R.O.W. Width Standards | |
| 23-34. | Dwelling or Sleeping in Recreational Vehicles | |
| 23-35. | No Obstruction of Irrigation Ditches, Drains and/or Canals | 2002-9 |
| 23-36. | Temporary Real Estate Sales Office | 2003-8 |
| 23-37. | River and Stream Corridor Setbacks | |

23-1. Effect of Chapter.

The regulations hereinafter set forth in this Chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this Ordinance.

23-2. Lots in Separate Ownership.

The requirements of this Ordinance as to minimum lot area or lot width shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land in the event that such lot or parcel of land is held in separate ownership at the time this ordinance becomes effective.

23-3. Yard Space for One Building Only.

No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

23-4. Every Dwelling to be on a "Lot".

Every dwelling shall be located and maintained on a "lot" as defined in this Ordinance; such lot shall have the required frontage on a public or approved private street or on a right-of-way which has been approved by the Board of Adjustment.

23-5. Separately Owned Lots - Reduced Yards.

On any lot under a separate ownership from adjacent lots and on record at the time of passage of this Ordinance, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width provided that on interior lots the smaller of the two yards shall be in no case less than five (5) feet, or the larger less than eight (8) feet; and for corner lots the side yard on the side street shall be in no case less than ten (10) feet or the other side yard be less than five (5) feet.

23-36. Temporary Real Estate Sales Office

A temporary real estate sales office may, by Conditional Use Permit, be allowed within the model home or the garage area of a model home located within a residential subdivision development of ten (10) or more lots or phase of more than ten (10) lots, for the sale of real estate within that specific subdivision.

1. A Building Permit may be issued for the temporary sales office 15 days after approval of the Conditional Use Permit; however, prior to use, shall meet all requirements of the Zoning Ordinance and Subdivision Ordinance prior to issuance of a Certificate of Occupancy.
2. The front yard of the Model Homes with temporary sales offices shall be landscaped, as approved with the Conditional Use Permit.
3. If the sales office is established in the garage, the garage door may be temporarily replaced with French doors, sliding glass doors or as approved by the Planning Commission with the Conditional Use Permit. Permanent changes to the site are prohibited. When the temporary use expires, the applicant shall restore the structure to its originally intended use as a residence and/or garage.
4. Temporary Sales Office is limited to one per development or phase, if development is a minimum of ten (10) or more lots and if the phase is a minimum of ten (10) or more lots.
5. Permanent signs are prohibited. The size and location of signs shall be in compliance with applicable provisions of the Zoning Ordinance for the zone in which the use will be conducted and as approved with the Conditional Use Permit. All signs shall be removed when the Permit expires. Any zoning requirements for lighting shall be in compliance
6. Hours of operation shall be limited from 8:00 a.m. to 8:00 p.m.
7. A Conditional Use Permit for temporary sales office in a model home shall be limited to a five (5) year time period, from the time the Certificate of Occupancy is issued. Time Extensions to be considered on a case by case basis by the Planning Commission.
8. If construction of the model home temporary sales office is not completed within one (1) year of the approval by the Township Planning Commission, the Permits shall be considered to be null and void.

23-37. River and Stream Corridor Setbacks

No Structure, accessory structure or parking area shall be built within the required setback from a river or stream as measured from the high water mark of the river or stream. The high water mark shall be determined by the County Engineer. The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native flora and fauna along the river or stream.

1. Structures, accessory structures or parking areas shall not be developed or located within 100 feet on both sides of the Weber River and the North Fork, South Fork and Middle Fork of the Ogden River, from the high water mark of the river.
2. Structures, accessory structures, or parking areas shall not be developed or located within 75 feet on both sides of year-round streams, as determined from the high water mark of the stream.
3. Structures, accessory structures, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.

Exceptions:

1. Bridges or stream alterations approved by the Army Corps of Engineers and Utah Department of Water Resources, Division of Water Quality.

2. Trails built in conformance to Chapter 40, Ogden Valley Pathways, of the Zoning Ordinance.
3. The Ogden River below Pineview Reservoir to its' confluence with the Weber River.

Streams are those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include storm water runoff devices or entirely artificial watercourse unless they are used to store or convey pass through stream flows naturally occurring prior to construction of such devices. Stream water courses where the definition may apply are those that appear on the U.S.G.S. Quad maps.

Passed, Adopted and Ordered published this 20th day of December, 2005, by the Board of County Commissioners of Weber County, Utah,

| | | |
|-----------------------|--------|------------|
| Commissioner Bischoff | Voting | <u>aye</u> |
| Commissioner Cain | Voting | <u>aye</u> |
| Commissioner Dearden | Voting | <u>aye</u> |

Kenneth A. Bischoff

 Kenneth A Bischoff, Chair

ATTEST:
Linda G. Luncelord
 Linda G. Luncelord, CPO Weber County Clerk