



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 20-foot variance to the 50' natural ephemeral stream corridor setback.
Agenda Date:	Thursday, February 11, 2021
Applicant:	Dennis Barrett (Applicant & Owner)
File Number:	BOA2021-11

Property Information

Approximate Address:	3488 N Elk Ridge Trail, Eden, UT
Project Area:	0.45 acres
Zoning:	Residential Estate (RE-15)
Existing Land Use:	Vacant Developable Lot
Proposed Land Use:	Residential
Parcel ID:	22-130-0009
Township, Range, Section:	T7N, R1E, Section 22, 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 3 (Residential Estates Zones RE-15 and Re-20)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands) Section 2 (Stream Corridors, Wetlands, and Shorelines)

Development History

On July 2, 1996, the Elkhorn Subdivision Ph. 2 plat was recorded. The subject property of this application is depicted as lot 29 of this subdivision (see **Exhibit B**). This lot is currently undeveloped. However the applicant has submitted for a Land Use Permit and a Building Permit for a single family residence.

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 February 1, 2021 (see **Exhibit A**).

Background and Project Summary

The applicant is requesting a 20-foot variance to the required 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home on the lot. The special circumstance on the property that is driving this variance request is a seasonal/intermittent stream running through the rear of the lot, as shown within a detention basin easement on the Elkhorn Subdivision Ph. 2 subdivision plat (see **Exhibit C**). This stream requires a 50-foot setback from its high water mark, thus creating a large encumbrance on the property.

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 (see **Exhibit E**). For reference, the Elkhorn Subdivision Ph. 2 was recorded in July of 1996. As such, this subdivision was originally designed for adequate sizing and configuration of building lots for residential footprints and did not contemplate additional setback requirements beyond the depicted detention basin easement.

For reference, seven total lots within this subdivision (lots 29-34) are affected by this stream. However, only lot 29 (applicant's lot) and lot 33 remain undeveloped. The developed lots 30-32 were either developed prior to Ordinance 2005-19 being adopted, or were permitted without going through the variance process.

The granting of a 20-foot variance would allow the applicant to build a home to within 30 feet of the stream's 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.*

Staff Analysis

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 ephemeral stream and its required 50-foot setback from high water marks. As mentioned above, this setback requirement was adopted 9 years following the recording of the associated Elkhorn Subdivision Ph. 2. As such, the lot was not designed during the subdivision process 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 RE-15 zone, significantly reduces the lot's developable area (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 RE-15 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 detention basin 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 RE-15 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.

Agency Reviews

To-date, Engineering, Building, and Fire have reviewed and approved the proposed single-family dwelling building plans.

Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis. Should the Board concur with staff's findings, the requested 20-foot variance could be granted.

Exhibits

- A. Variance Application & Narrative
- B. Elkhorn Subdivision, Phase 2 Dedication plat (07/02/1996)
- 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) 399-8374. 2380 Washington Blvd. Suite 240, Ogden, UT 84401			
Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
Property Owner Contact Information			
Name of Property Owner(s) <i>Dennis & Ellen Barrett</i>		Mailing Address of Property Owner(s) <i>3488 N. Elk Ridge Trail Eden, UT 84310</i>	
Phone <i>435-559-1047</i>	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address <i>dennispbarrett1958@gmail.com</i>			
Authorized Representative Contact Information			
Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Appeal Request			
<input checked="" type="checkbox"/> A variance request: ___ Lot area ___ Yard setback ___ Frontage width Other: _____			
<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 <i>3488 N. Elk Ridge Trail Eden, UT 84310</i>		Land Serial Number(s) <i>22-130-0009</i>	
Current Zoning <i>Single Family Residence</i>			
Existing Measurements		Required Measurements (Office Use)	
Lot Area <i>.45 acre</i>	Lot Frontage/Width <i>128.54 ft.</i>	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback <i>30 ft.</i>	Rear Yard Setback <i>30 ft.</i>	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback <i>10 ft.</i>	Side Yard Setback <i>20 ft.</i>	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

We are requesting a variance to the Weber County Land Use Code. Our property is in a developed area (subdivision) where other homes have the same controlled runoff stream. The stream is at the back of our property and is controlled by a valve approximately 1 mile away from our property that releases water from one retaining pond. The lowest portion of our proposed home is 5 feet above the high water mark. To be able to build our home on the property, we are requesting a variance to the code stating the home must be 50 feet away from the high water mark.

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.

Without the variance, we will not be able to build our proposed home on our lot. We have looked into shifting the home on the lot, but that won't work. We would be unable to accommodate the setback regulations.

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:

In order to be able to build our home and meet Weber County Land Use Code, a variance of 20 feet is being requested.

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

We purchased this lot in 2018. It was marketed, sold, and purchased by us as a building lot. We purchased the lot with the understanding that we would be able to build a home on this lot. We have since learned of the 50 feet from house to high water mark ordinance. Without the variance, we will be unable to build our home.

Variance Request (continued...)

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

The property is listed as a single family home building lot. It is expected for a home to be built on this lot. Granting the variance will not affect the general plan or be contrary to the public interest. There is already curb and gutters and utilities stubbed to the property.

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

We measured 4 points from the back of the home to the high water mark. The 4 points are 46', 36', 35' and 30'. The home will still sit substantially away and above the high water mark. This should be well within the spirit of the land use ordinance.

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 authorize 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.

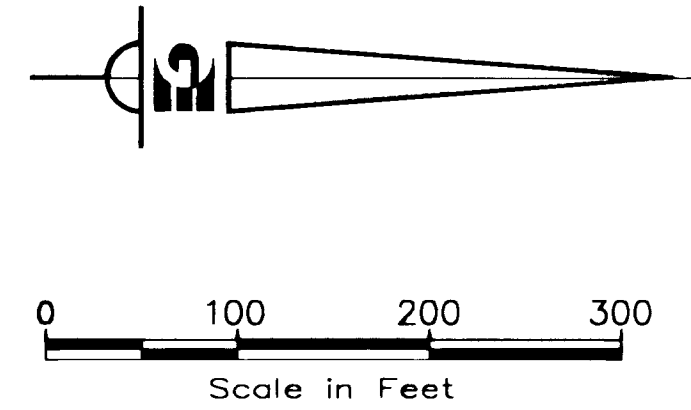
(Notary)

Exhibit B

ELKHORN SUBDIVISION, PHASE 2

PART OF THE SOUTHEAST 1/4 OF SECTION 22
AND PART OF THE NORTHEAST 1/4 OF SECTION 27
T7N, R1E, SLB&M, U.S. SURVEY

WEBER COUNTY, UTAH
JUNE 1996



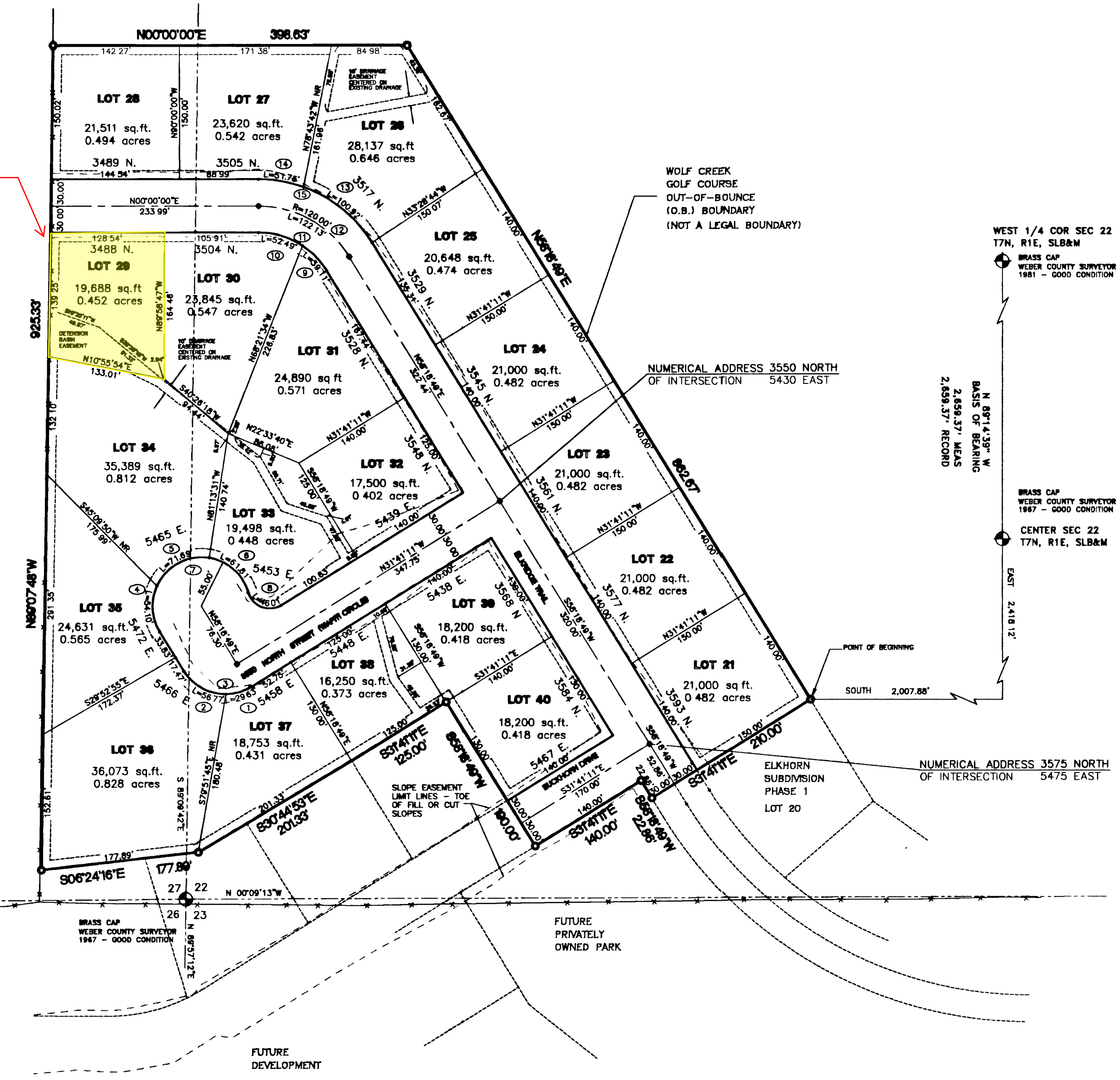
NOTES

REBAR AND YELLOW PLASTIC SURVEY CAPS (GARDNER ENG. LS 154270) TO BE SET AT ALL REAR PROPERTY CORNERS. NAILS TO BE SET IN CURB AT ALL FRONT PROPERTY CORNERS.

10' PUBLIC UTILITY EASEMENT TYPICAL AS SHOWN UNLESS OTHERWISE NOTED.

LOCATION OF STREET SURVEY MONUMENT TO BE SET NR = NON-RADIAL LOT LINE

Subject Property



CURVE DATA TABLE

CURVE	RADIUS	DELTA	TANGENT	LENGTH	CHORD BRG.	CHORD DIST.
1	55.00'	30°51'42"	15.18'	29.63'	S16°15'20"E	29.27'
2	55.00'	59°08'18"	31.21'	56.77'	S28°44'40"W	54.28'
3	55.00'	90°00'00"	55.00'	86.39'	S13°18'49"W	77.78'
4	55.00'	56°21'45"	29.47'	54.10'	S86°29'41"W	51.95'
5	55.00'	74°41'11"	41.96'	71.69'	N27°58'51"W	66.72'
6	55.00'	64°23'35"	34.63'	61.81'	N41°33'32"E	58.61'
7	55.00'	195°26'31"	405.67'	187.61'	S23°57'56"E	109.00'
8	25.00'	105°26'31"	32.84'	46.01'	N21°02'04"E	39.78'
9	90.00'	24°53'57"	27.01'	39.11'	S45°51'51"W	38.80'
10	90.00'	33°24'52"	19.87'	52.49'	N16°42'26"E	51.75'
11	90.00'	58°18'49"	50.21'	91.60'	S29°09'25"W	87.70'
12	120.00'	58°18'49"	66.95'	122.13'	S29°09'25"W	116.93'
13	150.00'	38°32'50"	52.45'	100.92'	N39°02'24"W	99.02'
14	150.00'	19°45'59"	26.13'	51.75'	N09°52'59"W	51.49'
15	150.00'	58°18'49"	83.68'	152.66'	S29°09'25"W	146.16'

NARRATIVE
THIS SURVEY AND SUBSEQUENT SUBDIVISION PLAT WERE COMPLETED AT THE REQUEST OF THE "WOLF CREEK ASSOCIATES" FOR THE PURPOSE OF SUBDIVIDING THEIR PROPERTY TO CREATE RESIDENTIAL LOTS.

DEVELOPER
WOLF CREEK ASSOCIATES
LOWELL PETERSON

SURVEYOR'S CERTIFICATE

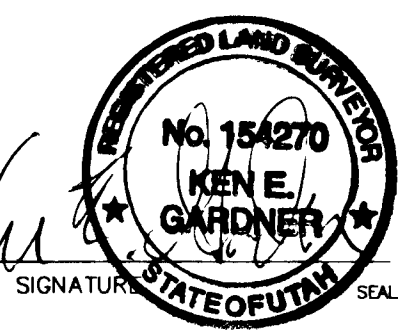
I, KEN E. GARDNER, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 154270, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW AND THAT THE REFERENCE MARKERS SHOWN ON THIS SUBDIVISION PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY, THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE BELOW DESCRIBED TRACT OF REAL PROPERTY AND OF EACH OF THE LOTS LOCATED ON SAID TRACT AND THIS SUBDIVISION PLAT COMPLIES WITH THE PROVISIONS OF THE CURRENT SUBDIVISION AND ZONING ORDINANCE REGULATIONS OF WEBER COUNTY.

BOUNDARY DESCRIPTION

A PART OF THE SOUTHEAST 1/4 OF SECTION 22 AND A PART OF THE SOUTHWEST 1/4 OF SECTION 27, T7N, R1E, SLB&M, BEGINNING AT A POINT AT THE SOUTHWEST CORNER OF ELKHORN SUBDIVISION PHASE 1 LOT # 20 SAID POINT BEING EAST 2,418.12 FEET AND SOUTH 2,007.88 FEET FROM THE CENTER OF SECTION 22, T7N, R1E, SLB&M (BASIS OF BEARING: N 89°14'39" W FROM SAID CORNER TO THE WEST 1/4 CORNER OF SEC 22); THENCE

COURSES:		
S 31°41'11" E	210.00 FT.	ALONG SAID ELKHORN PHASE 1, THENCE
S 58°18'49" W	22.86 FT.	THENCE;
S 31°41'11" E	140.00 FT.	THENCE;
S 58°18'49" W	190.00 FT.	THENCE
S 31°41'11" E	125.00 FT.	THENCE;
S 30°44'53" E	201.33 FT.	THENCE;
S 06°24'16" E	177.89 FT.	TO AND EXISTING FENCELINE; THENCE
N 89°07'48" W	925.33 FT.	ALONG SAID FENCELINE; THENCE
N 00°00'00" E	398.63 FT.	TO THE WOLF CREEK GOLF COURSE (O.B.) BOUNDARY; THENCE
N 58°18'49" E	862.67 FT.	ALONG SAID (O.B.) BOUNDARY TO THE POINT OF BEGINNING.

CONTAINS: 12 716 ACRES / 553,915 S.F.



DATE

SIGNATURE

OWNER'S DEDICATION

WE, THE UNDERSIGNED OWNERS OF THE HEREON DESCRIBED TRACT OF LAND, HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND STREETS AS SHOWN ON THIS PLAT AND NAME SAID TRACT ELKHORN SUBDIVISION, PHASE 2

AND DO 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 HEREBY GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED ON THE PLAT AS PUBLIC UTILITY, STORM WATER DETENTION PONDS, DRAINAGE AND CANAL MAINTENANCE EASEMENTS, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE, AND OPERATION OF PUBLIC UTILITY SERVICE LINES, STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR FOR THE PERPETUAL PRESERVATION OF WATER DRAINAGE CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY AUTHORIZED BY WEBER COUNTY, UTAH, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS.

SIGNED THIS 2nd DAY OF July, 1996

WOLF CREEK ASSOCIATES
LOWELL PETERSON, GENERAL PARTNER

BLAINE WADE
WOLF CREEK ASSOCIATES
BLAINE WADE, GENERAL PARTNER

Prepared By: Gardner Engineering LLC

5150 SOUTH WASHINGTON BLVD.
OGDEN, UT 84405
(801)476-0202

COUNTY RECORDER
ENTRY NO. 415847 FEE PAID \$50.00 FILED FOR RECORD AND RECORDED 02-01-96 AT 2:41 PM IN BOOK 42 OF OFFICIAL RECORDS, PAGE 43 RECORDED FOR WOLF CREEK ASSOC.
DANA CROFTS COUNTY RECORDER
BY: Carrie Warner DEPUTY

WEBER COUNTY PLANNING COMMISSION APPROVAL
THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED BY THE WEBER COUNTY PLANNING COMMISSION ON THE 28th DAY OF June, 1996

WEBER COUNTY ATTORNEY
I HAVE EXAMINED THE FINANCIAL GUARANTEE AND OTHER DOCUMENTS ASSOCIATED WITH THIS SUBDIVISION PLAT AND IN MY OPINION THEY CONFORM WITH THE COUNTY ORDINANCE APPLICABLE THERETO AND NOW IN FORCE AND EFFECT

WEBER COUNTY SURVEYOR
I HEREBY CERTIFY THAT I HAVE INVESTIGATED THE LINES 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 MONUMENTS ON RECORD IN THIS OFFICE.

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

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

TITLE: Commission Chair
Admin. Assistant
ATTEST: [Signature]

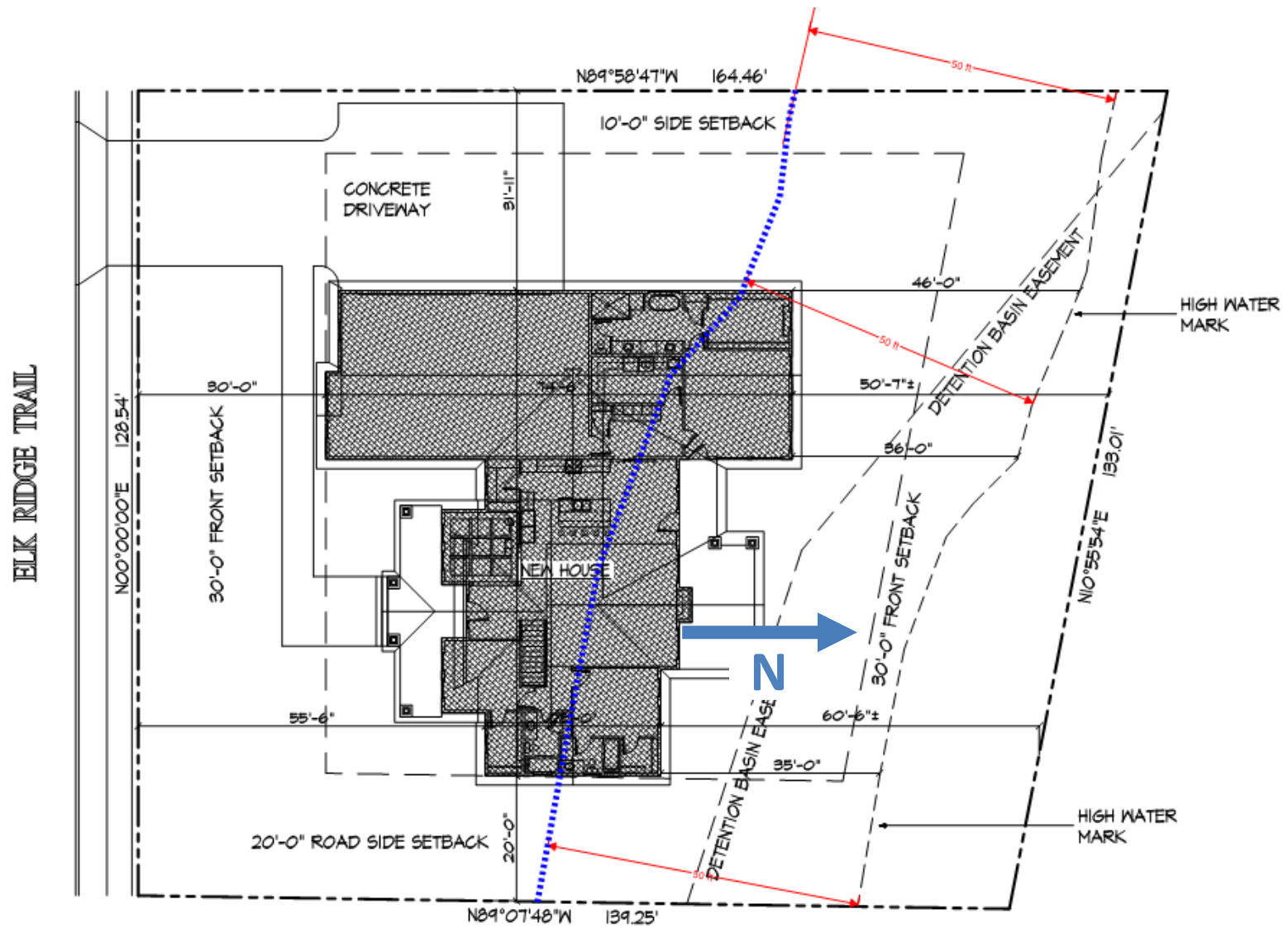
ACKNOWLEDGEMENT
STATE OF UTAH)
COUNTY OF WEBER) SS

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN SAID STATE OF UTAH, THE SIGNER OF THE ABOVE OWNER'S DEDICATION, TWO (2) IN NUMBER, WHO DULY ACKNOWLEDGED TO ME HE SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSES THEREIN MENTIONED.

ACKNOWLEDGEMENT
ON THIS 2nd DAY OF July, 1996, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN SAID STATE OF UTAH, BEING BY ME DULY SWORN, ACKNOWLEDGED TO ME THAT HE IS OF SAID CORPORATION AND THAT HE SIGNED THE ABOVE OWNER'S DEDICATION AND CERTIFICATION IN BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BOARD OF DIRECTORS, AND SAID CORPORATION ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

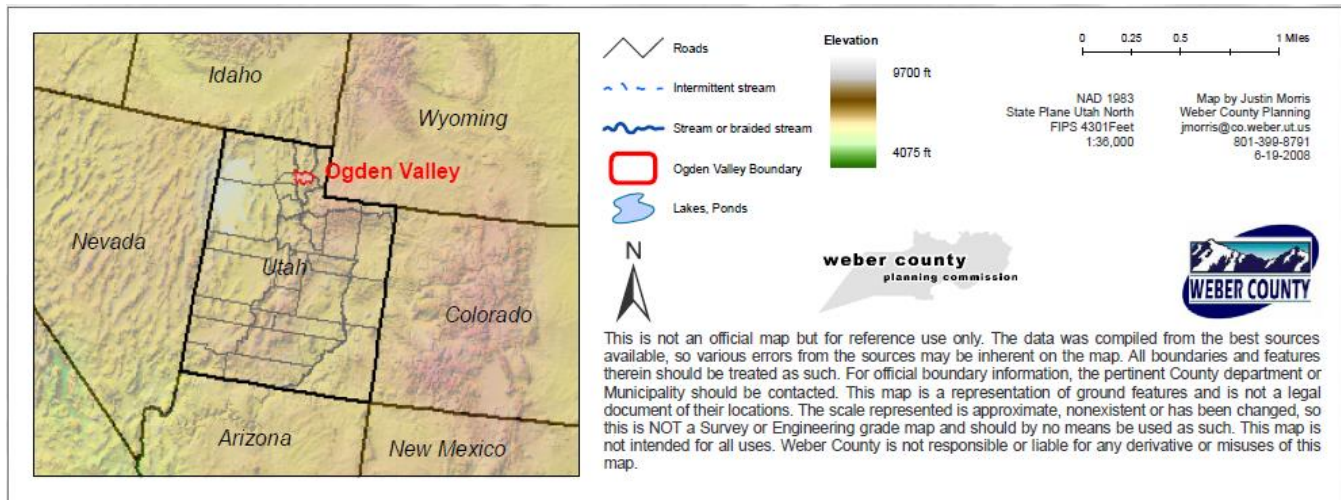
STAMP: [Notary Seal]
NOTARY PUBLIC

Exhibit C: Site Plan Showing Setbacks



SITE PLAN
 SCALE 1"=10'-0"

Exhibit D: Ogden Valley Sensitive Lands – Stream Corridor Map



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.

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

Exhibit E: Ordinance 2005-19 (Excerpt)

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.

Exhibit E: Ordinance 2005-19 (Excerpt)

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.

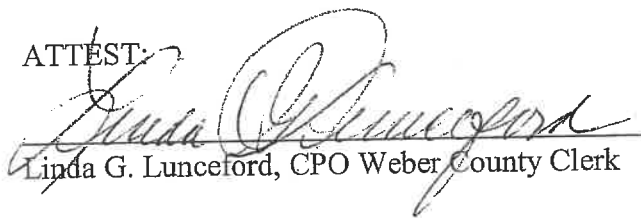
Passed, Adopted and Ordered published this 20th day of December, 2005, by the Board of County Commissioners of Weber County, Utah,

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



Kenneth A Bischoff, Chair

ATTEST:



Linda G. Luncelord, CPO Weber County Clerk