



# 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 34-foot ~~20-foot~~ variance to the 50' natural ephemeral stream corridor setback.

**Agenda Date:** ~~Thursday, February 11, 2021~~ Thursday, May 13, 2021

**Applicant:** Dennis Barrett (Applicant & Owner)

**File Number:** BOA2021-07 ~~BOA2021-01~~

### 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

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Residential	<b>West:</b>	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**).

The original variance request to the Board of Adjustment was submitted on February 1, 2021 for a 20-foot variance which was approved on February 11, 2021.

This amended request to modify the setback from the verified high water mark was submitted on May 3, 2021.

## Background and Project Summary

The applicant is requesting a 34-foot ~~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 34-foot ~~20-foot~~ variance would allow the applicant to build a home to within 16-feet ~~30-feet~~ of the stream's high water mark.

When the original variance request was submitted, a high watermark was incorrectly depicted on a site plan submitted by the applicant's builder. Per this erroneous site plan, the applicant's proposed building plans only necessitated a 20-foot variance in order to contain the home's foundation walls and an exterior deck's footings 30 feet away from the high watermark. However, once excavation of the lot was underway, the Building Inspection department notified the Planning and Engineering Divisions that the new setbacks (30-feet) allowed under the approved variance appeared to be encroached. Upon investigation it was found that the home was properly placed on the lot per the front and side setbacks. However because the high watermark was incorrectly depicted on the original site plan, the rear of the home was several feet closer to the stream than was allowed by the modified setbacks.

Unfortunately, the Building Inspection Department found that the home and deck footings were placed outside of the stormdrain easement that is depicted on the plat. As such, the Building Department allowed the applicant to pour the home's foundation footings and walls. However they requested that the exterior deck footings be postponed until Planning and Engineering had a chance to inspect the site.

Upon inspection, Engineering verified the high watermark to be within 16-feet of the rear-most deck footing and within 22-feet of the rear-most corner of the home's foundation wall. Due to these measurements the applicant has re-submitted to amend their original variance request to allow for a 34-foot variance to the 50-foot setback.

## 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.

It should be mentioned that the entirety of the home continues to remain outside of the drainage easement as was originally intended by the design of the lot when the Elkhorn Subdivision Ph. 2 was originally platted. Additionally, the Engineering Division has reviewed the proposed placement of the home's foundation and deck footings in relation to the correct high water mark and do not have any concerns regarding stability or potential for erosion given the depth of the stream channel and upstream flow regulation infrastructure.

### 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 [originally](#) proposed single-family dwelling building plans. [As indicated above, Engineering does not have any concerns regarding the correct placement of the home in relation to the stream.](#)

### Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis. Should the Board concur with staff's findings, the requested [34-foot](#) ~~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 Required Setbacks
- D. [UPDATED Site Plans Depicting Verified High Watermark](#)
- E. Ogden Valley Sensitive Lands - Stream Corridor Map
- F. Ordinance 2005-19 (Excerpt)



## Exhibit A: Updated Variance Narrative

We are requesting a variance to place our deck footings in the back of our home along the seasonal stream located on our property. We had previously requested a variance of 20 feet and that was granted to us. During that process, we submitted all necessary documentation and it was approved.

We (homeowners) and our contractor, Dan Kurek, were all under the impression that we needed the initial variance only for the actual home, not the deck footings. Our building permit was granted and we proceeded to excavate and pour the house footings. When the footings inspection took place, we were told that the deck footings would not be within the variance allowance initially granted.

We have stopped all construction and are now applying for an additional variance. The exact amount of variance we need will be determined upon a new site plan to be conducted by Gardner Engineering. They will determine the distance from the proposed deck footings and also from the house footings that have already been poured to the seasonal stream as requested by Scott Perkes at Weber County Planning.

We will submit the new site plan as soon as it is available to us. This should be done by May 5, 2021.

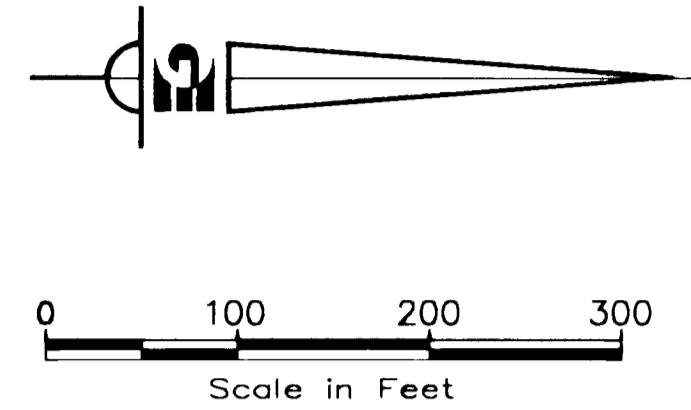


# Exhibit B

## 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



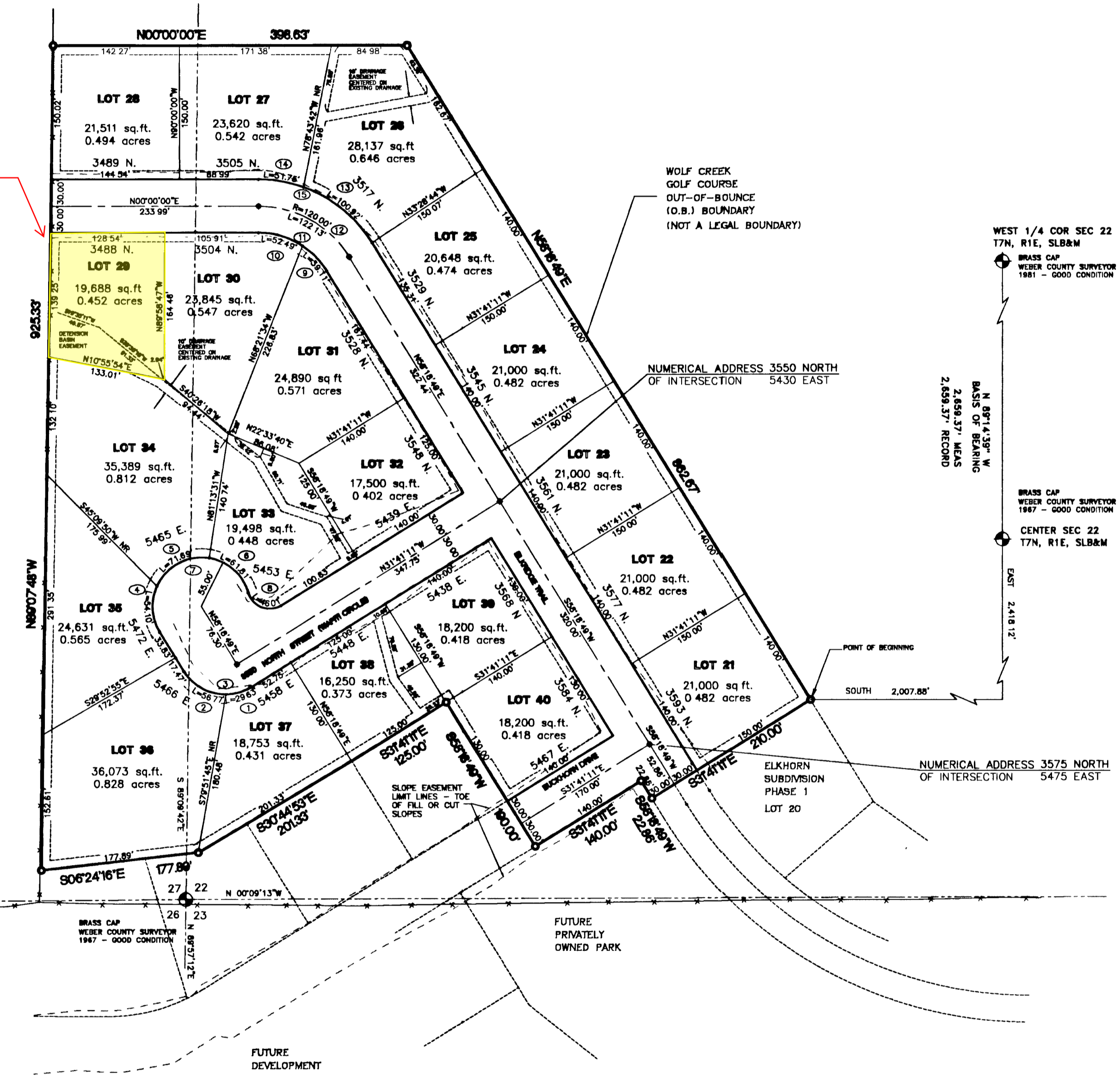
**NOTES**

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.

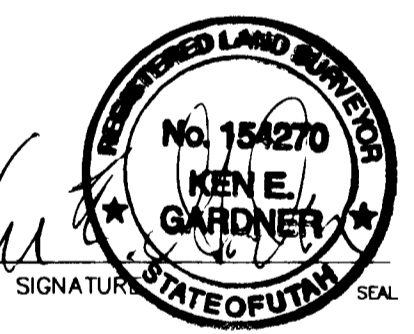
### BOUNDARY DESCRIPTION

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:



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

Chairman, WEBER COUNTY PLANNING COMMISSION

### 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

SIGNED THIS 28th DAY OF June, 1996

Signature of Attorney

### 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.

SIGNED THIS 26th DAY OF July, 1996

Signature of Surveyor

### 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

SIGNED THIS 28th DAY OF June, 1996

Signature of Engineer

### 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 1st DAY OF July, 1996

Chairman, WEBER COUNTY COMMISSION

Commission Chair  
Admin. Assistant  
Attest: M. Bradford

### ACKNOWLEDGEMENT

STATE OF UTAH )  
COUNTY OF WEBER ) SS

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, 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.

Notary Public Signature

### ACKNOWLEDGEMENT

STATE OF UTAH )  
COUNTY OF WEBER ) SS

ON THIS \_\_\_ DAY OF \_\_\_, 1996, PERSONALLY

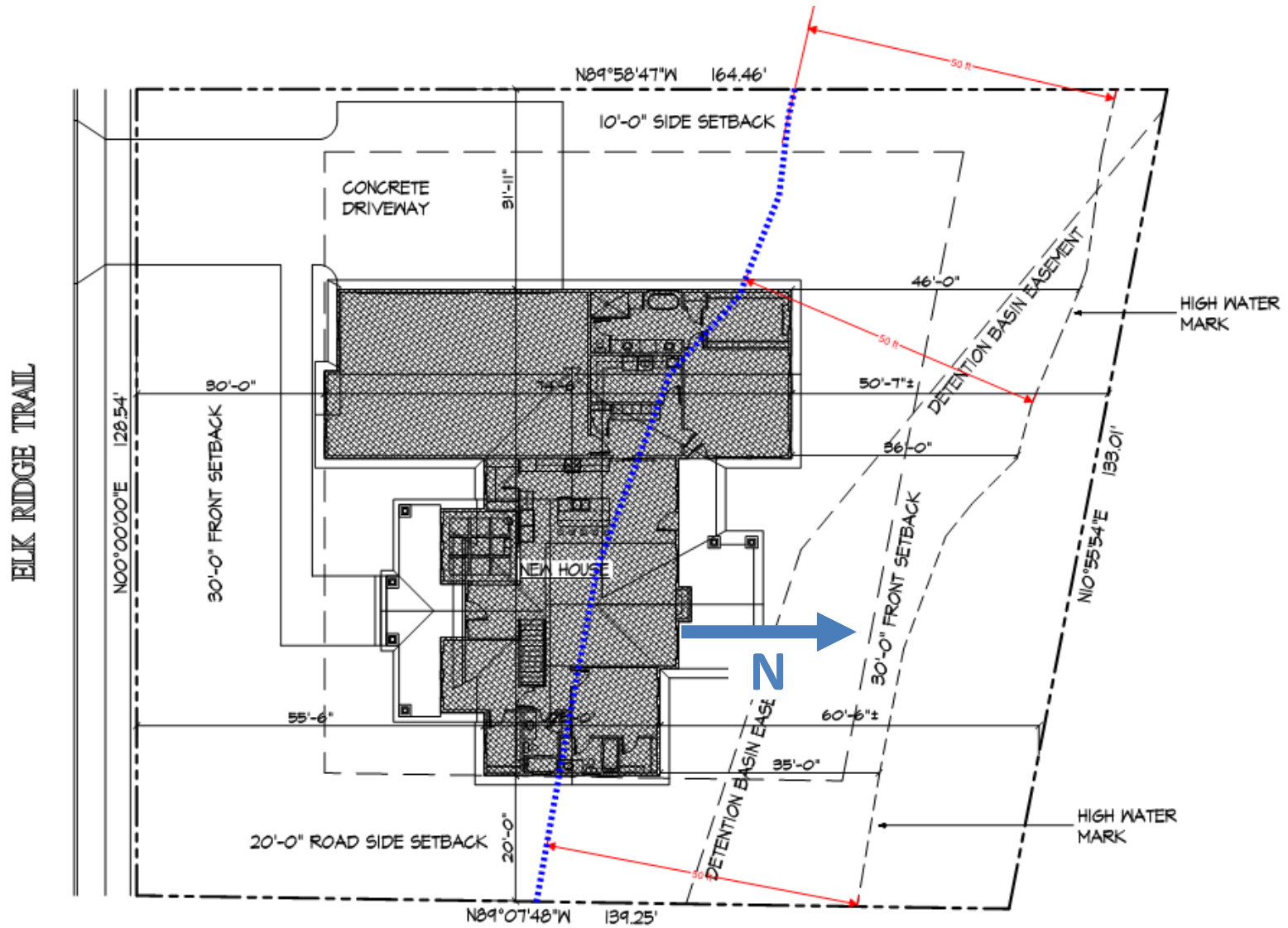
APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN SAID STATE OF UTAH, BEING BY ME DULY SWORN, ACKNOWLEDGED TO ME THAT HE IS \_\_\_ OF SAID CORPORATION AND THAT HE SIGNED THE ABOVE OWNER'S DEDICATION AND CERTIFICATION IN BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BOARD OF DIRECTORS, AND SAID \_\_\_ ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

STAMP

NOTARY PUBLIC



Exhibit C: Site Plan Showing Setbacks

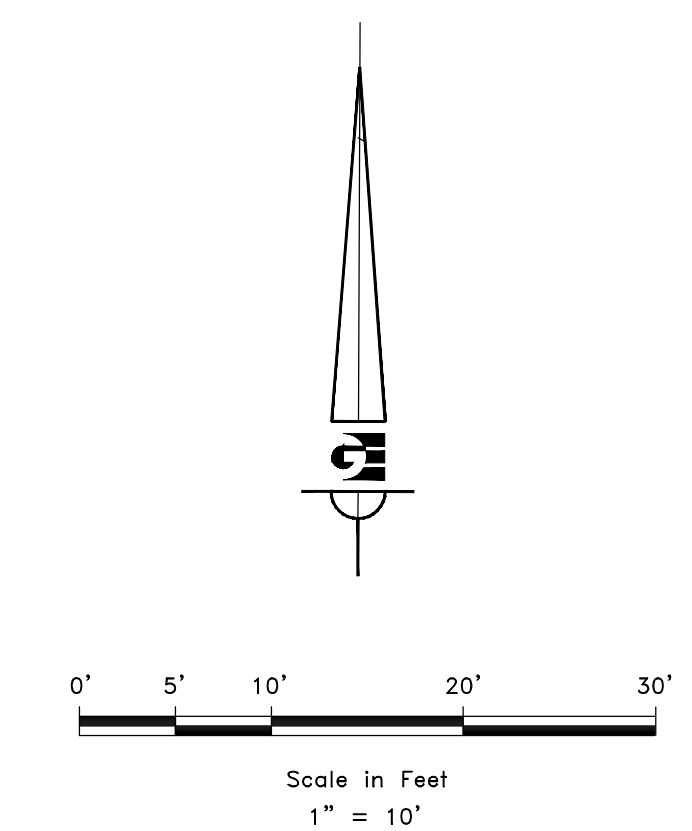
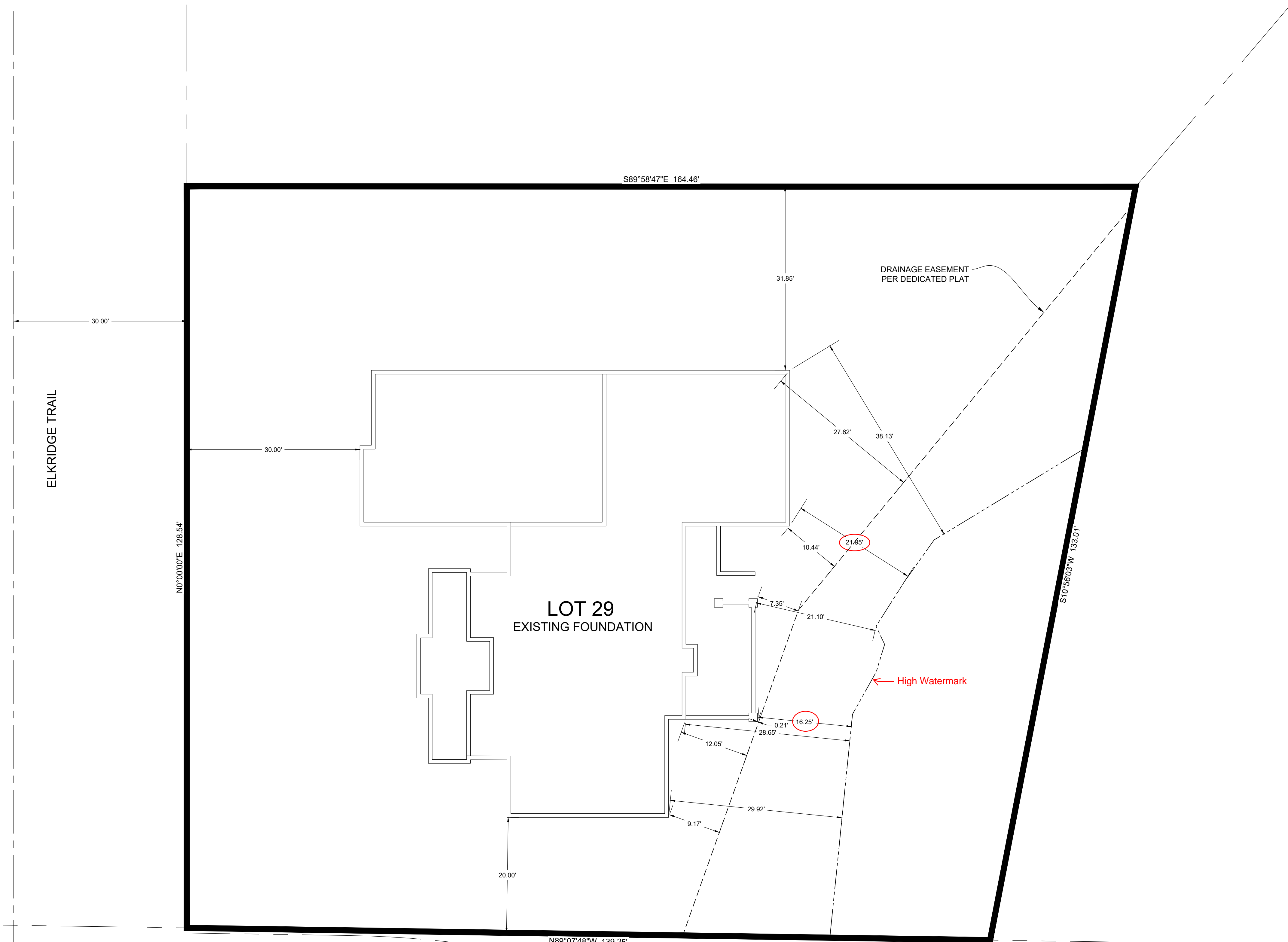


SITE PLAN  
SCALE 1"=10'-0"

# Exhibit D

## BOUNDARY DESCRIPTION

ALL OF LOT 29, ELKHORN SUBDIVISION PHASE 2, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE WITH THE WEBER COUNTY RECORDER.



- ### LEGEND
- WEBER COUNTY MONUMENT AS NOTED
  - SET 24" REBAR AND CAP MARKED GARDNER ENGINEERING
  - SUBJECT PROPERTY BOUNDARY
  - LOT LINE
  - ADJACENT PARCEL
  - SECTION LINE
  - PLATTED EASEMENT
  - EXISTING FENCE LINE
  - HIGH WATER PER WEBER COUNTY

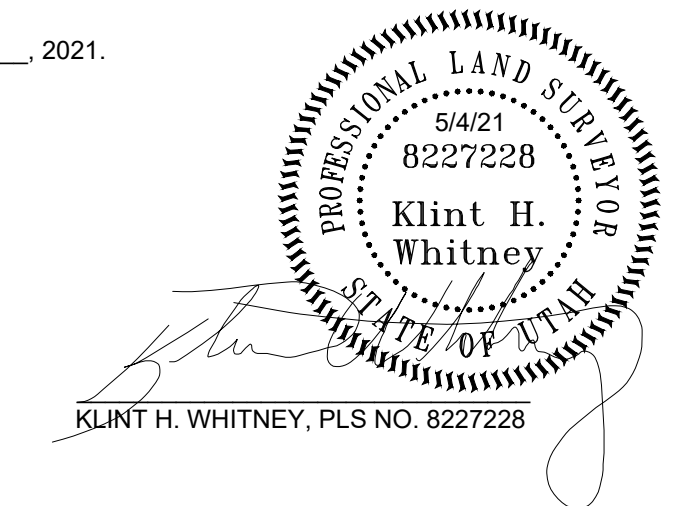
### NARRATIVE

THE PURPOSE OF THIS SUBDIVISION WAS TO IDENTIFY THE RELATIONSHIP BETWEEN THE EXISTING FOUNDATION AND PROPERTY LINES AND LINES DELINEATED BY WEBER COUNTY.

### SURVEYOR'S CERTIFICATE

I, KLINT H. WHITNEY, DO HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH AND THAT I HOLD CERTIFICATE NO. 8227228 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND LAND SURVEYORS ACT; I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS RECORD OF SURVEY PLAT IN ACCORDANCE WITH SECTION 17-23-20 AND HAVE VERIFIED ALL MEASUREMENTS; THAT THE REFERENCE MONUMENTS SHOWN ON THIS RECORD OF SURVEY PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY; AND THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY.

SIGNED THIS 4TH DAY OF MAY, 2021.



REVISIONS	DATE	DESCRIPTION

SCALE: 1" = 10'  
 DATE: 5/4/21  
 DESIGN: \_\_\_\_\_  
 DRAWN: KHW  
 CHECKED: KHW  
 DWG. NO.: R-2001 - MISC SURVEY 2021 - DENNIS BARRETT SURVEY/DENNIS BARRETT SITE PLAN/DWG

**SITE PLAN FOR DENNIS BARRETT**  
 3488 NORTH ELKRIDGE TRAIL, EDEN, UTAH  
 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22,  
 TOWNSHIP 7 NORTH, RANGE 1 EAST, S.L.B. AND M.

**GARDNER ENGINEERING**  
 CIVIL - LAND PLANNING  
 MUNICIPAL - LAND SURVEYING  
 5150 SOUTH 375 EAST OGDEN, UT  
 OFFICE: 801.476.0202 FAX: 801.476.0066

S1  
 1



**Exhibit E: Ogden Valley Sensitive Lands – Stream Corridor Map**



Roads  
 Intermittent stream  
 Stream or braided stream  
 Ogden Valley Boundary  
 Lakes, Ponds

**Elevation**  
 9700 ft  
 4075 ft

0 0.25 0.5 1 Miles  
 NAD 1983  
 State Plane Utah North  
 FIPS 4301 Feet  
 1:36,000

Map by Justin Morris  
 Weber County Planning  
 jmorris@co.weber.ut.us  
 801-399-8791  
 6-19-2008

**weber county**  
 planning commission

This is not an official map but for reference use only. The data was compiled from the best sources available, so various errors from the sources may be inherent on the map. All boundaries and features therein should be treated as such. For official boundary information, the pertinent County department or Municipality should be contacted. This map is a representation of ground features and is not a legal document of their locations. The scale represented is approximate, nonexistent or has been changed, so this is NOT a Survey or Engineering grade map and should by no means be used as such. This map is not intended for all uses. Weber County is not responsible or liable for any derivative or misuses of this 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 F: 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.

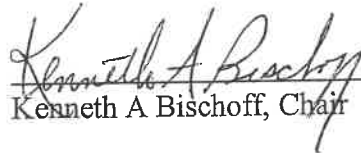
Exhibit F: Ordinance 2005-19 (Excerpt)

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.

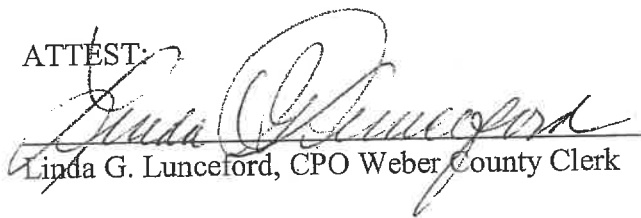
Streams are those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water 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