



# Staff Report for Administrative Approval

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Request for final approval of Snow Basin Subdivision Phase 1, consisting of 3 lots.  
**Agenda Date:** Wednesday January 18<sup>th</sup>, 2023  
**Applicant:** Bryce Goodin  
**File Number:** UVS090722

### Property Information

**Approximate Address:** 5585 Snowbasin Road, Huntsville  
**Project Area:** 38 acres  
**Zoning:** FV-3  
**Existing Land Use:** Vacant  
**Proposed Land Use:** Residential  
**Parcel ID:** 20-034-0003  
**Township, Range, Section:** T6N, R1E, Section 22

### Adjacent Land Use

<b>North:</b> Forest Service	<b>South:</b> Residential
<b>East:</b> Residential	<b>West:</b> Vacant

### Staff Information

**Report Presenter:** Steve Burton  
[sburton@webercountyutah.gov](mailto:sburton@webercountyutah.gov)  
801-399-8766

**Report Reviewer:** RG

## Applicable Ordinances

- Title 104, Zones, Chapter 14 Forest Valley Zone (FV-3)
- Title 106, Subdivisions, Chapters 1-8 as applicable
- Title 108, Chapter 17 Ogden Valley Pathways

## Background and Summary

This is a proposed three lot subdivision off Old Snow Basin Road near the Legacy Mountain Estates PRUD subdivision. The proposal includes a request to use a private access easement to access a total of nine lots. The developer submitted a subdivision application in September of 2022. Since then the developer has been working to address review agency comments. The developer has shown, through geologic hazards studies that there are significant geologic hazards in this area which may warrant approval of an alternative access.

## Analysis

**General Plan:** The proposal conforms to the Ogden Valley General Plan by maintaining the existing density provided by the current zoning and existing approvals (2016 Ogden Valley General Plan, Land Use Principle 1.1).

**Zoning:** The subject property is located in the Forest Valley (FV-3) zone. The purpose and intent of the FV-3 zone is identified in the LUC §104-14-1 as:

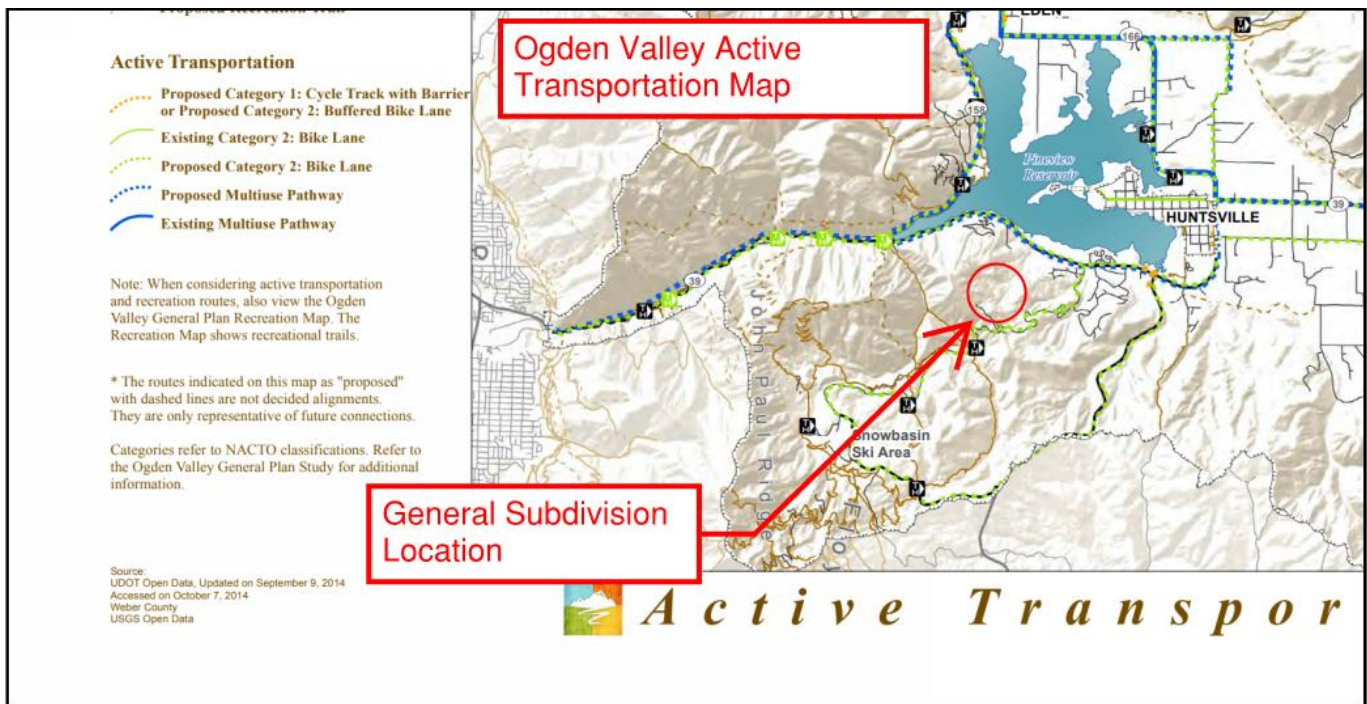
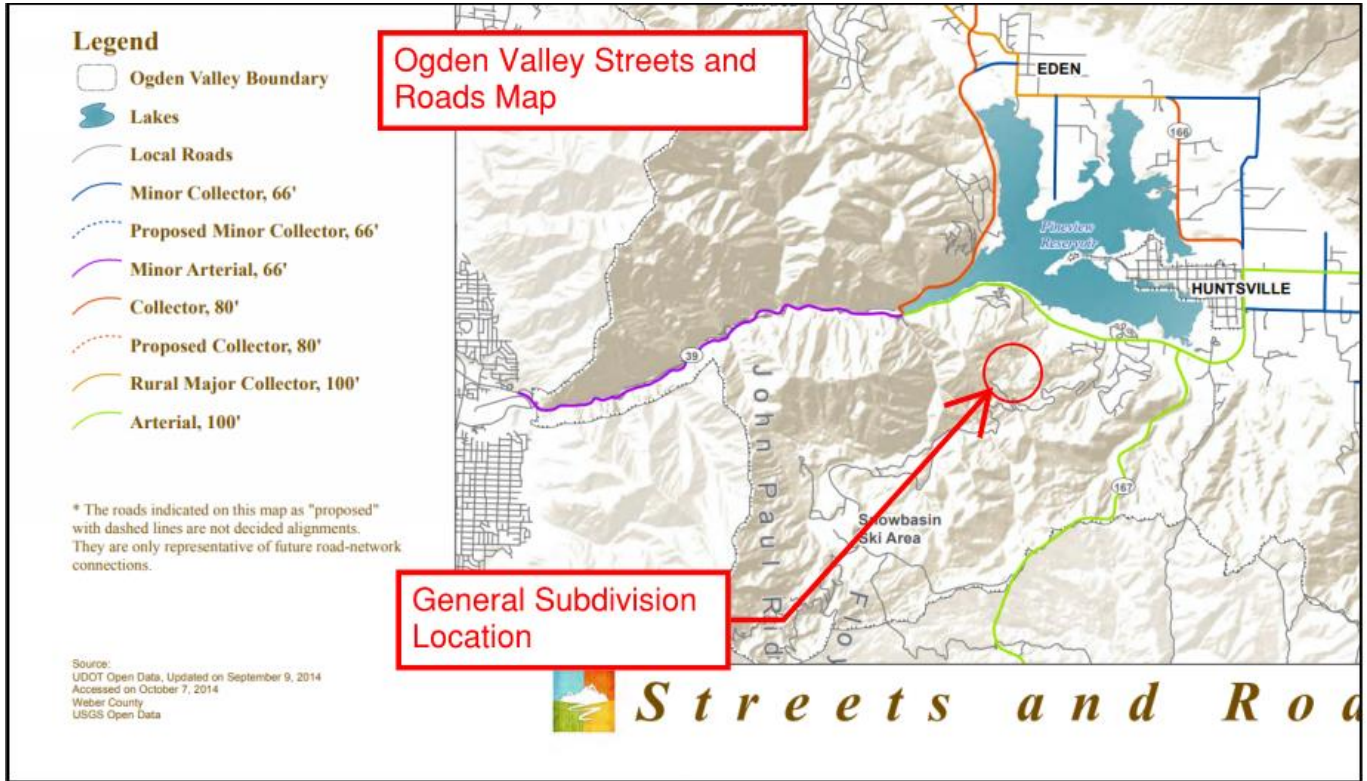
*“The purpose of the Forest Valley Zone, FV-3 is to provide area for residential development in a forest setting at a low density, as well as to protect as much as possible the naturalistic environment of the development.”*

**Lot area, frontage/width and yard regulations:** The site development standards for the FV-3 zone require a minimum lot area of 3 acres of net developable area. The FV-3 zone requires a minimum lot width of 150 feet. Each lot has a minimum of 150 feet of lot width and 3 acres.

**Culinary water, secondary water, and sanitary sewage disposal:** The developer is proposing to use one shared well for culinary and secondary water. The developer has obtained a well permit from the health department for the shared well that will be

located on lot 2. The developer has an approved exchange application with the Utah Division of Water Rights for the proposed amount of culinary and secondary water. The proposed exchange is for domestic use for 9 dwelling units and includes irrigation shares that can cover 3.65 acres of outdoor watering. If the exchange is approved, each lot can have 17,666 square feet of irrigated lawn. A condition of subdivision approval is that a covenant be recorded with the final subdivision plat, referencing the 17,666 square feet of irrigated lawn maximum allowance.

Relation to Adjoining Street Systems/Ogden Valley Pathways: The Ogden Valley General Plan Streets and Roads map does not show any planned public streets in this area. The Ogden Valley General Plan Active Transportation map does not show planned trails in this subdivision location. The applicant has obtained an easement to access the streets in Legacy Mountain Estates so that this subdivision will still have street connectivity, for emergency purposes.



Sec 108-7-31 states the following regarding the allowance of an access easement instead of a public street improved to county public works standards:

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

a) *Criteria.*

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

b) *Conditions.*

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

Regarding the approval criteria, the applicant argues that criteria 3 is met due to geologic hazards impacting the site, and that constructing a public street in this location is not practical. According to the geologic hazards study performed by CMT Laboratories, dated December 9, 2019, the property is impacted by several potentially active slopes and mass movement hazards. An adjacent subdivision called Legacy Mountain Estates proposed to deed the private streets to the county in 2021 but the county did not accept the streets due to similar geologic hazards.

Sensitive Lands: This proposed subdivision lies within a geologic hazard study area. The applicant has supplied a geologic hazards report that recommends geotechnical studies be performed before the construction of any dwelling. The geologic hazards report recommends that no building take place on areas with 25 percent slope or greater. A condition of approval is that the final plat show either buildable areas, that do not include easements, hazards, or slopes greater than 25 percent, or the final plat can show non-buildable areas, where the hazards and steep slopes exist.

A seasonal stream is shown on the subdivision plat with a 50 foot setback from the high water mark on either side of the stream. The proposed private access easement goes over the stream. The Engineering Division is requesting that the applicant ask the Utah State Division of Environmental Quality if a stream alteration is required. If a stream alteration permit is required, engineering will require that the permit is obtained before the plat can record.

Open Space: The first phase consists of 24 acres of common area that surrounds each lot. The open space is not a requirement of the land use code, as the proposed subdivision is not a cluster subdivision or PRUD.

Review Agencies: To date, the proposed subdivision has been reviewed by the Planning Division, Weber Fire District, and Weber County Engineering, and the Surveyor's Office. The Fire District has given approval on Frontier. Engineering and Surveying have not yet approved on frontier. A condition of subdivision approval is that all review agency conditions be met before the plat can record.

## Staff Recommendation

Staff recommends final approval of Snow Basin Subdivision Phase 1, consisting of 3 lots and one common area parcel. This recommendation for approval is subject to **all review agency requirements** and is based on the following conditions:

1. All improvements shall be installed, escrowed for, or a combination of both, prior to County Commission approval.
2. A Natural Hazard Notice shall be recorded with the plat, and a note on the final plat shall be required which states that the parcel is located within a natural hazard study area.
3. A covenant will be recorded with the final subdivision plat, referencing the 17,666 square feet of irrigated lawn maximum allowance per lot.
4. The final plat will show either buildable areas, that do not include easements, hazards, or slopes greater than 25 percent, or the final plat can show non-buildable areas, where the hazards and steep slopes exist.

This recommendation is based on the following findings:

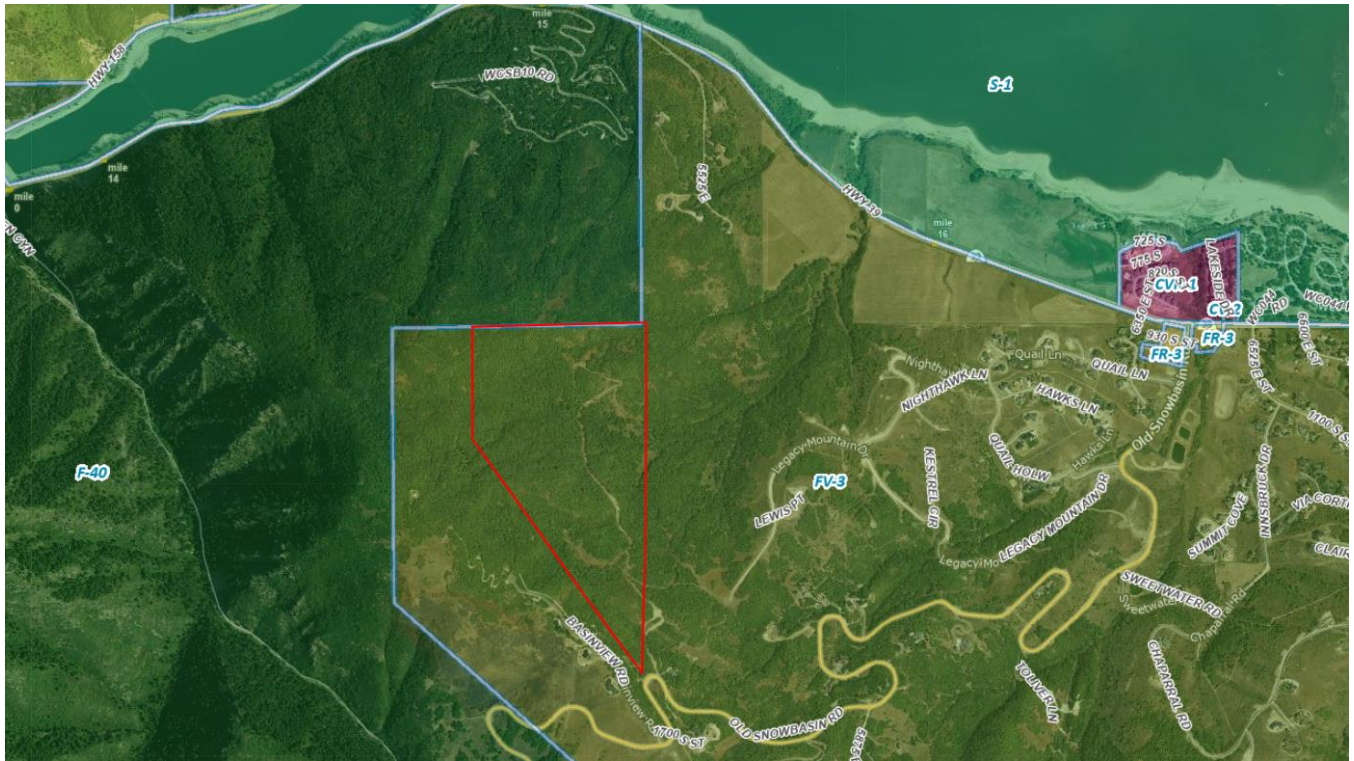
1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

## Exhibits

- A. Proposed Final Plat
- B. Water Approvals



# Location Map



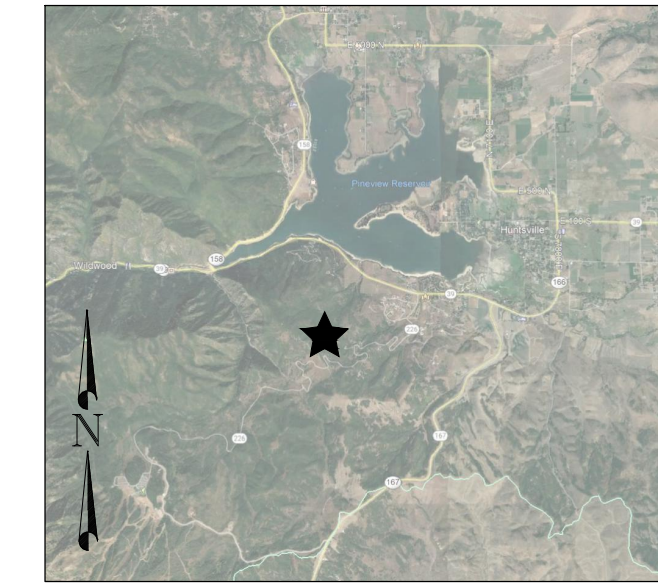


# SNOW BASIN SUBDIVISION PHASE 1

LOCATED IN THE EAST HALF OF SECTION 22,  
TOWNSHIP 6 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN,  
WEBER COUNTY, UTAH  
DECEMBER 2022

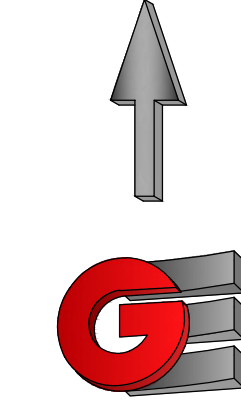
### VICINITY MAP

NOT TO SCALE



### BOUNDARY DESCRIPTION

A PART OF THE EAST HALF OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 1 EAST, OF THE SALT LAKE BASE AND MERIDIAN. BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 22 AND RUNNING THENCE SOUTH 00°24'21" WEST 699.74 FEET ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE NORTH 89°35'39" WEST 346.01 FEET; THENCE SOUTH 62°16'21" WEST 49.10 FEET; THENCE SOUTH 90°00'00" WEST 698.21 FEET; THENCE SOUTH 54°50'19" WEST 103.81 FEET; THENCE SOUTH 60°00'57" WEST 1010.39 FEET; THENCE NORTH 1°25'34" EAST 1270.00 FEET; TO THE NORTH LINE OF SAID QUARTER. THENCE ALONG SAID NORTH LINE NORTH 89°34'01" EAST 1021.11 FEET TO THE POINT OF BEGINNING. CONTAINING 1,708,205 SQUARE FEET OR 39.21 ACRES MORE OR LESS. TOGETHER WITH AN INGRESS AND EGRESS AND PUBLIC UTILITY EASEMENT DESCRIBED AS FOLLOWS. A PART OF THE EAST HALF OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 1 EAST, OF THE SALT LAKE BASE AND MERIDIAN. A 60.00 FOOT WIDE INGRESS AND EGRESS AND PUBLIC UTILITY EASEMENT BEING 30 FEET RIGHT AND 30 FEET LEFT OF THE FOLLOWING DESCRIBED CENTERLINE. BEGINNING AT A POINT BEING LOCATED SOUTH 82°16'13" WEST 157.45 FEET AND SOUTH 89°34'04" WEST 545.13 FEET AND SOUTH 2°20'24" WEST 425.79 FEET FROM THE NORTHEAST CORNER OF SAID SECTION; RUNNING THENCE SOUTH 47°04'48" EAST 119.26 FEET; THENCE SOUTH 74°31'35" EAST 74.00 FEET; THENCE SOUTH 78°42'35" EAST 52.40 FEET; THENCE SOUTH 57°07'20" EAST 33.28 FEET; THENCE SOUTH 89°12'40" EAST 153.97 FEET; THENCE ALONG THE ARC OF A 42.41 FOOT RADIUS CURVE TO THE RIGHT 72.89 FEET, HAVING A CENTRAL ANGLE OF 98°28'32" WITH A CHORD BEARING SOUTH 12°54'22" WEST 64.25 FEET; THENCE SOUTH 62°16'21" WEST 111.76 FEET; THENCE SOUTH 59°04'32" WEST 179.66 FEET; THENCE SOUTH 54°38'49" WEST 117.54 FEET; THENCE SOUTH 43°40'16" WEST 34.54 FEET; THENCE SOUTH 20°30'56" WEST 88.81 FEET; THENCE SOUTH 8°57'48" WEST 48.77 FEET; THENCE SOUTH 25°58'51" EAST 46.06 FEET; THENCE SOUTH 35°36'56" EAST 44.24 FEET; THENCE SOUTH 7°20'59" EAST 118.69 FEET; THENCE SOUTH 3°35'14" EAST 73.15 FEET; THENCE SOUTH 4°17'05" WEST 77.27 FEET; THENCE SOUTH 11°30'47" EAST 51.33 FEET; THENCE SOUTH 21°25'52" EAST 40.74 FEET; THENCE SOUTH 10°54'06" EAST 46.07 FEET; THENCE SOUTH 11°12'58" EAST 73.50 FEET; THENCE SOUTH 34°48'52" EAST 133.73 FEET; THENCE SOUTH 45°55'29" EAST 83.60 FEET; THENCE SOUTH 36°58'13" EAST 71.83 FEET; THENCE SOUTH 38°19'15" EAST 95.91 FEET; THENCE SOUTH 34°58'19" EAST 97.03 FEET; THENCE SOUTH 23°34'09" EAST 79.28 FEET; THENCE SOUTH 3°32'21" EAST 47.50 FEET; THENCE SOUTH 4°55'11" WEST 53.30 FEET; THENCE SOUTH 13°15'36" EAST 94.49 FEET; THENCE SOUTH 40°14'00" EAST 67.82 FEET; THENCE SOUTH 40°36'44" EAST 80.13 FEET; THENCE SOUTH 20°29'40" EAST 58.87 FEET; THENCE SOUTH 4°43'26" WEST 67.16 FEET; THENCE SOUTH 7°35'27" WEST 85.28 FEET; THENCE SOUTH 12°10'15" WEST 70.70 FEET; THENCE SOUTH 6°08'19" WEST 49.96 FEET; THENCE SOUTH 1°42'01" EAST 87.05 FEET; THENCE SOUTH 11°43'23" EAST 41.03 FEET; THENCE SOUTH 29°13'01" EAST 28.76 FEET; THENCE SOUTH 38°19'48" EAST 106.65 FEET; THENCE SOUTH 37°06'43" EAST 104.07 FEET; THENCE SOUTH 51°56'05" EAST 52.47 FEET TO THE POINT OF BEGINNING.



### LEGEND

- WEBER COUNTY MONUMENT AS NOTED
- SET 24" REBAR AND CAP MARKED GARDNER ENGINEERING
- SUBDIVISION BOUNDARY
- LOT LINE
- ADJACENT PARCEL
- SECTION LINE
- PRIVATE DRIVE / PUBLIC UTILITY EASEMENT
- EXISTING FENCE LINE
- EMERGENCY ACCESS AND P.U.E. EASEMENT
- SETBACK LINES
- EXISTING WATER LINE
- EXISTING IRRIGATION LINE
- EXISTING STORM DRAIN
- EXISTING SANITARY SEWER
- EXISTING OVERHEAD POWER
- EXISTING WATER METER
- EXISTING WATER MANHOLE
- EXISTING FIRE HYDRANT
- EXISTING WATER VALVE
- EXISTING STORM MANHOLE
- EXISTING CATCH BASIN
- EXISTING SEWER MANHOLE
- WELL PROTECTION ZONE

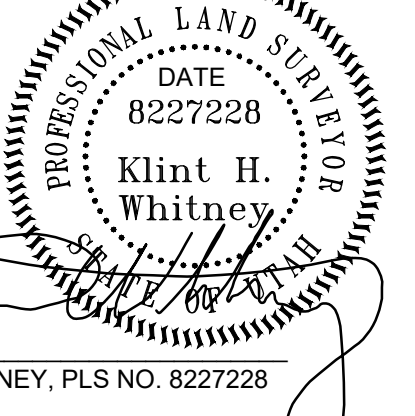
### NOTES

- WASTEWATER SITE AND SOILS EVALUATION #14914 5590 OLD SNOWBASIN ROAD HUNTSVILLE, UTAH 84317  
EXPLORATION PIT #2 (UTM ZONE 12 NAD 83 041408 E 4566100 N)  
0-20" SANDY LOAM GRANULAR STRUCTURE, <5% GRAVEL  
20-41" SANDY LOAM, BLOCKY STRUCTURE, <5% GRAVEL  
41-82" SANDY LOAM, MASSIVE STRUCTURE, <5% GRAVEL  
82-92" COARSE SANDY LOAM, MASSIVE STRUCTURE  
EXPLORATION PIT #3 (UTM ZONE 12 NAD 83 0431596 E 4566189 N)  
0-27" SANDY LOAM GRANULAR STRUCTURE, <5% GRAVEL  
27-42" SANDY LOAM, BLOCKY STRUCTURE, <5% GRAVEL  
42-91" LOAM, MASSIVE STRUCTURE, <5% GRAVEL  
EXPLORATION PIT #4 (UTM ZONE 12 NAD 83 0431545 E 4566396 N)  
0-21" SANDY LOAM, GRANULAR STRUCTURE  
21-90" SANDY CLAY LOAM, MASSIVE STRUCTURE, 15% GRAVEL  
EXPLORATION PIT #5 (UTM ZONE 12 NAD 83 0431392 E 44566576 N)  
0-25" LOAM GRANULAR STRUCTURE  
25-72" GRAVELLY SANDY LOAM, MASSIVE STRUCTURE, 50% GRAVEL  
EXPLORATION PIT #6 (UTM ZONE 12 NAD 83 0431335 E 4566515 N)  
0-26" SANDY LOAM, GRANULAR STRUCTURE, <5% GRAVEL  
26-40" SANDY LOAM, BLOCKY STRUCTURE, 10% GRAVEL  
40-90" GRAVELLY COARSE LOAMY SAND, GRANULAR TO SINGLE GRAIN STRUCTURE, 75% GRAVEL

### 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 AS SHOWN AND DESCRIBED ON THIS PLAT, AND HAVE SUBDIVIDED SAID PROPERTY INTO LOTS AND STREETS, TOGETHER WITH EASEMENTS, HEREAFTER TO BE KNOWN AS SNOW BASIN SUBDIVISION PHASE 1 IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS; THAT THE REFERENCE MONUMENTS SHOWN HEREON ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY; THAT ALL LOTS MEET THE REQUIREMENTS OF THE LAND USE CODE; AND THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.



### OWNER'S DEDICATION

I THE UNDERSIGNED OWNER OF THE HEREON DESCRIBED TRACT OF LAND, HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS, PARCELS AND STREETS AS SHOWN ON THIS PLAT AND NAME SAID TRACT:

### SNOW BASIN SUBDIVISION PHASE 1

AND HEREBY DEDICATE, GRANT AND CONVEY TO INDIVIDUAL LOT OWNERS WITHIN THIS DEVELOPMENT AND THE SNOW BASIN HOME OWNERS ASSOCIATION. ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS PRIVATE DRIVE, THE SAME TO BE USED FOR INGRESS AND TO BE USED AS A PUBLIC UTILITY EASEMENT AND TO BE MAINTAINED BY SAID ASSOCIATION, AND ALSO GRANT AND DEDICATE A PERPETUAL EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED ON THE PLAT AS COMMON AREA, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES, STORM DRAINAGE FACILITIES OR FOR THE PERPETUAL PRESERVATION OF WATER DRAINAGE CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY BE AUTHORIZED BY WEBER COUNTY, UTAH, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS, AND GRANT, DEDICATE AND CONVEY TO WEBER COUNTY A PERPETUAL EASEMENT ON, OVER AND UNDER LAND DESIGNATED AS COMMON AREAS TO GUARANTEE TO WEBER COUNTY THAT THE COMMON AREAS REMAIN OPEN AND UNDEVELOPED EXCEPT FOR APPROVED RECREATIONAL, PARKING AND OPEN SPACE PURPOSES; AND ALSO DOES HEREBY GRANT AND CONVEY TO THE SNOW BASIN SUBDIVISION OWNERS ASSOCIATION, INC. (AND ITS SUCCESSORS AND ASSIGNS) WHOSE MEMBERSHIP CONSISTS OF THE MEMBERS/OWNERS OF SAID ASSOCIATION, THEIR GRANTEES, SUCCESSORS AND/OR ASSIGNS ALL THOSE PART OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AND DEPICTED ON SAID PLAT AS COMMON AREAS, WHICH ARE TO BE USED FOR PRIVATE RECREATIONAL AND OPEN SPACE PURPOSES BY AND FOR THE BENEFIT OF EACH ASSOCIATION MEMBER/OWNER IN COMMON WITH ALL OTHERS IN THE SUBDIVISION, WITH SUCH COMMON AREAS TO BE MAINTAINED BY SAID ASSOCIATION

### NON TYPICAL COMMERCIAL PROPERTIES LLC

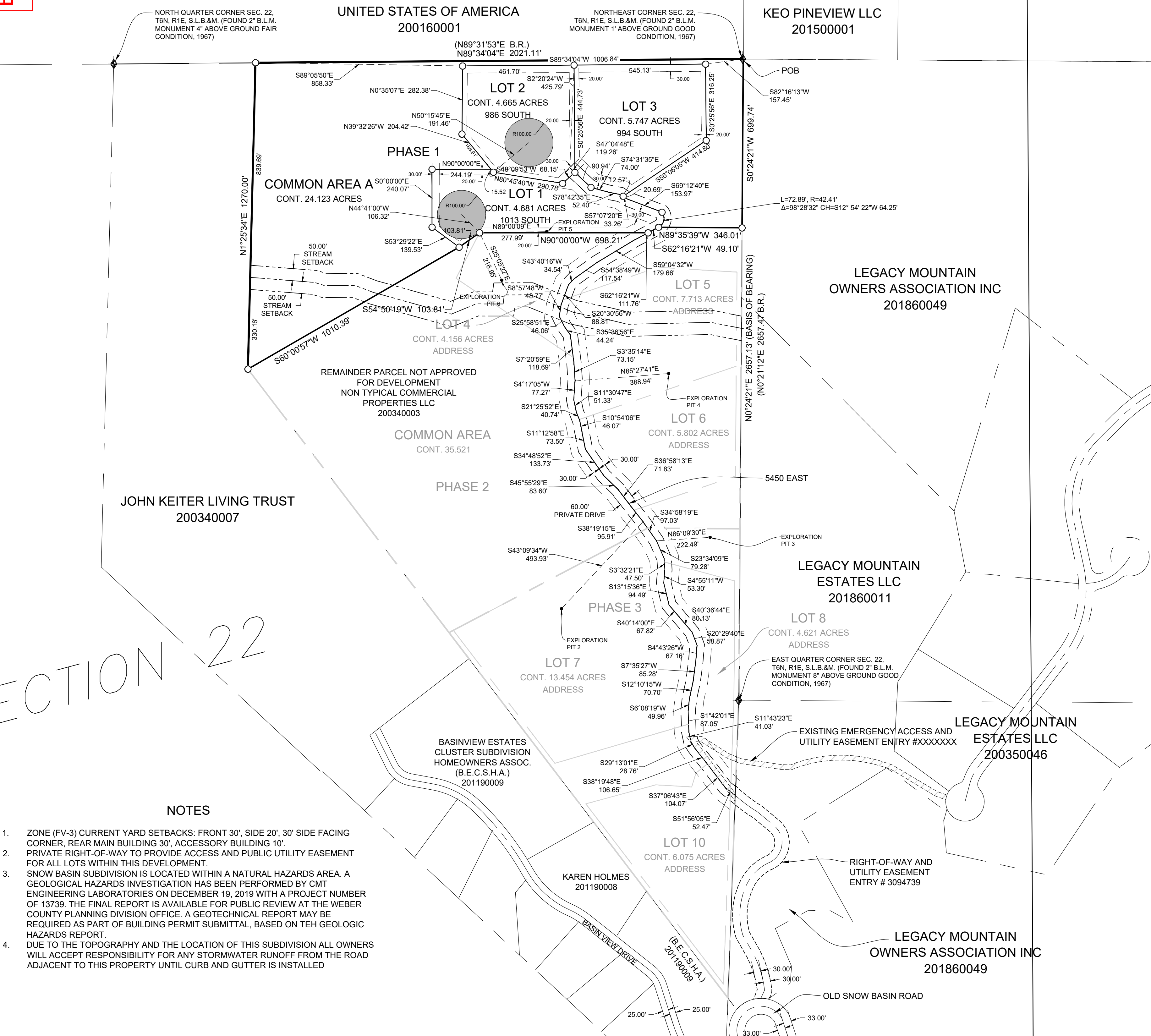
SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

BY: PARKER VENABLE, PRESIDENT

### ACKNOWLEDGEMENT

STATE OF UTAH )  
COUNTY OF WEBER )  
On this \_\_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me PARKER VENABLE, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the PRESIDENT OF NON TYPICAL COMMERCIAL PROPERTIES LLC, and that said document was signed by him/her in behalf of said Corporation by Authority of its Bylaws, or (Resolution of its Board of Directors), and said PARKER VENABLE) acknowledged to me that said Corporation executed the same.

STAMP: DEVELOPER: PARKER VENABLE, 2801 W 500 S, MALAD, IDAHO 83252, 801-941-3427. COUNTY RECORDER: ENTRY NO. \_\_\_\_\_, FEE PAID \_\_\_\_\_, FILED FOR AND RECORDED \_\_\_\_\_, AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF OFFICIAL RECORDS, PAGE \_\_\_\_\_, RECORDED FOR \_\_\_\_\_, COUNTY RECORDER BY: \_\_\_\_\_



### NOTES

- ZONE (FV-3) CURRENT YARD SETBACKS: FRONT 30', SIDE 20', 30' SIDE FACING CORNER, REAR MAIN BUILDING 30', ACCESSORY BUILDING 10'.
- PRIVATE RIGHT-OF-WAY TO PROVIDE ACCESS AND PUBLIC UTILITY EASEMENT FOR ALL LOTS WITHIN THIS DEVELOPMENT.
- SNOW BASIN SUBDIVISION IS LOCATED WITHIN A NATURAL HAZARDS AREA. A GEOLOGICAL HAZARDS INVESTIGATION HAS BEEN PERFORMED BY CMT ENGINEERING LABORATORIES ON DECEMBER 19, 2019 WITH A PROJECT NUMBER OF 13739. THE FINAL REPORT IS AVAILABLE FOR PUBLIC REVIEW AT THE WEBER COUNTY PLANNING DIVISION OFFICE. A GEOTECHNICAL REPORT MAY BE REQUIRED AS PART OF BUILDING PERMIT SUBMITTAL, BASED ON THE GEOLOGIC HAZARDS REPORT.
- DUE TO THE TOPOGRAPHY AND THE LOCATION OF THIS SUBDIVISION ALL OWNERS WILL ACCEPT RESPONSIBILITY FOR ANY STORMWATER RUNOFF FROM THE ROAD ADJACENT TO THIS PROPERTY UNTIL CURB AND GUTTER IS INSTALLED.

WEBER COUNTY SURVEYOR: I HEREBY CERTIFY THAT THE WEBER COUNTY SURVEYOR'S OFFICE HAS REVIEWED THIS PLAT AND ALL CONDITIONS FOR APPROVAL BY THIS OFFICE HAVE BEEN SATISFIED. THE APPROVAL OF THIS PLAT BY THE WEBER COUNTY SURVEYOR DOES NOT RELIEVE THE LICENSED LAND SURVEYOR WHO EXECUTED THIS PLAT FROM THE RESPONSIBILITIES AND/OR LIABILITIES ASSOCIATED THEREWITH.

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 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.

WEBER COUNTY PLANNING COMMISSION APPROVAL: THIS IS TO CERTIFY THAT THIS SUBDIVISION WAS DULY APPROVED BY THE WEBER COUNTY PLANNING COMMISSION.

WEBER - MORGAN HEALTH DEPARTMENT: I DO HEREBY CERTIFY THAT THE SOILS, PERCOLATION RATES, AND SITE CONDITION FOR THIS SUBDIVISION HAVE BEEN INVESTIGATED BY THIS OFFICE AND ARE APPROVED FOR ON-SITE WASTEWATER DISPOSAL SYSTEMS.

WEBER COUNTY SURVEYOR: \_\_\_\_\_  
COUNTY SURVEYOR

WEBER COUNTY ATTORNEY: \_\_\_\_\_  
COUNTY ATTORNEY

WEBER COUNTY ENGINEER: \_\_\_\_\_  
COUNTY ENGINEER

WEBER COUNTY COMMISSION ACCEPTANCE: \_\_\_\_\_  
CHAIRMAN, WEBER COUNTY COMMISSION

WEBER COUNTY PLANNING COMMISSION APPROVAL: \_\_\_\_\_  
CHAIRMAN, WEBER COUNTY PLANNING COMMISSION

WEBER - MORGAN HEALTH DEPARTMENT: \_\_\_\_\_  
DIRECTOR WEBER-MORGAN HEALTH DEPT.





SPENCER J. COX  
Governor  
DEIDRE M. HENDERSON  
Lieutenant Governor

State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
Division of Water Rights

BRIAN C. STEED  
Executive Director

TERESA WILHELMSSEN  
State Engineer/Division Director

Exhibit B

ORDER OF THE STATE ENGINEER  
For Exchange Application Number 35-14110 (E6339)

JUN 7 2022

Exchange Application Number 35-14110 (E6339) in the name of Non-Typical Commercial Properties LLC was filed on March 9, 2022, to exchange 15.00 acre-feet of water, as evidenced by Water Right Number 35-827 (A27608) owned by the U.S. Bureau of Reclamation and a contract (Number 49048 associated with Tax I.D. Number 20-034-0003) for its use with Weber Basin Water Conservancy District. The 15.00 acre-feet of water is to be released from Pineview Reservoir and, in lieu thereof, 15.00 acre-feet of water will be diverted from: (1) Well - North 228 feet and West 737 feet from the E $\frac{1}{4}$  Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep); (2) Well - North 1066 feet and West 59 feet from the E $\frac{1}{4}$  Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep); (3) Well - South 1151 feet and West 337 feet from the NE Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep); (4) Well - South 640 feet and West 1172 feet from the NE Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep); (5) Well - South 830 feet and West 986 feet from the NE Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep); (6) Well - South 454 feet and West 833 feet from the NE Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep); and (7) Well - South 343 feet and West 889 feet from the NE Corner of Section 22, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep). The water is to be used for the irrigation of 3.65 acres from April 1 to October 31; and year-round, indoor, domestic requirements of 9.00 equivalent domestic units. The water is to be used in all or portion(s) of Sections 14, 15, 22, & 23, T6N, R1E, SLB&M.

Notice of the exchange application was published in the Standard Examiner on March 31 and April 7, 2022. No protests were received.

This Exchange Application seeks to replace a portion of Exchange Application Number 35-6058 (E369) contract number 77503 for 150.00 acre-feet. A 15.00 acre-feet portion of the original contract supporting Exchange Application Number 35-6058 (E369) in the name of Wadman Investments has been transferred to the applicants.

It is the opinion of the State Engineer that this exchange application can be approved without adversely affecting existing rights. The applicant is put on notice that diligence must be shown in pursuing the development of this application, which can be demonstrated by the completion of the project as proposed in the exchange application.

It is, therefore, **ORDERED** and Exchange Application Number 35-14110 (E6339) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicant and Weber Basin Water Conservancy District. This contract must be

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maintained for this exchange to remain valid. No water may be withdrawn under this application if a contract is not in effect.

- 2) Total diversion under this exchange application is limited to 15.00 acre-feet of water per year for the irrigation of 3.65 acres (10.95 acre-feet) from April 1 to October 31; and year-round, indoor, domestic requirements of 9.00 equivalent domestic units (4.05 acre-feet).
- 3) The water being exchanged shall be released from Pineview Reservoir into Ogden River as called for by the river commissioner.
- 4) The applicant shall construct or install and maintain controlling works and a measuring device as required by Section 73-5-4 of Utah Code.

The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before **June 30, 2029**, or a request for extension of time must be acceptably filed; otherwise, the application will be lapsed. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to, or use of land or facilities not owned by the applicant.

As noted, this approval is granted subject to prior rights. The applicant shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among parties or decreed by a court of competent jurisdiction.

Under the authority of Section 73-3-20 of the Utah Code, the applicant is required to submit a proof of diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses and extent of your water right.

Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicant must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights, which may be approved to be diverted from those sources.



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Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this exchange application.

**It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership. Additionally, if ownership of this water right or the property with which it is associated changes, the records of the Division of Water Rights should be updated. For assistance in updating title to the water right, please contact the Division at the phone number below.**

Your contact with this office, should you need it, is with the Weber River/Western Regional Office. The telephone number is 801-538-7240.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or for judicial review with the appropriate District Court. A Request for Reconsideration must be filed in writing with the State Engineer within 20 days of the date of this Order. The written request shall be filed in-person, by mail, or electronically. If the request is filed electronically it shall be submitted to: [waterrights@utah.gov](mailto:waterrights@utah.gov), which is the authorized general email for the Division. However, a Request for Reconsideration is not a prerequisite to filing for judicial review. A petition for judicial review must be filed within 30 days after the date of this Order or, if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 7 day of June, 2022.

  
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Teresa Wilhelmsen, P.E., State Engineer  
By: *Blake W. Bingham, Deputy*

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Mailed a copy of the foregoing Order this 7 day of June, 2022 to:

Non-Typical Commercial Properties LLC  
1900 S 4600 W  
Malad ID 83252

Weber Basin Water Conservancy District  
2837 East Highway 193  
Layton UT 84040

Kent Wilkerson, River Commissioner  
5833 Cascade Drive  
Mountain Green UT 84050

Division of Water Rights  
Distribution Section  
c/o Susan Odekirk  
OGDEN RIVER

BY: Doralee Cannon  
Doralee Cannon, Applications/Records Secretary