



# BOARD OF ADJUSTMENT

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## MEETING AGENDA Thursday, January 14, 2016 4:30 p.m.

*\*Pledge of Allegiance*

### Regular Agenda Items

1. Minutes Approval of the July 16, 2015 and August 20, 2015 meeting minutes
2. BOA 2015-08 Consideration and action on a request for a variance from setback requirements, lot area requirements, lot width requirements, and lot access requirements on parcels with tax ID 20-019-0001, 20-019-0003, and 20-019-0004. (Richard Vance, Jeffrey Callahan, & Colby Keddington, Applicants)
3. Election: Election of Chair and Vice Chair for 2016
4. Schedule & Information: 2016 Meeting Schedule and Member Information List
5. Rules of Order: Consideration and Action the Board of Adjustment Rules of Order
6. Adjournment:

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



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

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Minutes of the Board of Adjustment Meeting held on July 16, 2015, in the Weber County Commission Chambers, in the Weber Center, 1<sup>st</sup> Floor, 2380 Washington Blvd, commencing at 4:30 p.m.

**Members Present:** Rex Mumford, Chair; Celeste Canning, Phil Hancock

**Staff Present** Sean Wilkinson, Planning Director, Ronda Kippen, Planner; Chris Crockett and Courtlan Erickson, Legal Counsel; Sherri Sillitoe, Secretary

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***Pledge of Allegiance***

**1. Regular Agenda Items**

**1. Minutes Approval of the June 18, 2015 meeting minutes**

Chair Mumford indicated that on the bottom of Page 4, it states that Francis Foley was willing to swap Mr. Harris property; however, he believes the sentence was said sarcastically. Mr. Foley was not willing. He did not view it as a general proposal. On the top of Page 7, 1<sup>st</sup> Para., Phil Hancock asked Chair Mumford what his concern were and Chair Mumford indicated that he would delete the sentence because he is not sure why that sentence was included in the minutes. The point was that the applicant had other possibilities to resolve the issue other than a variance.

**MOTION:** Phil Hancock moved to approve the June 18, 2015 meeting minutes as amended. Celeste Canning seconded. A vote was taken with Celeste Canning, Phil Hancock and Chair Mumford voting aye. Motion approved (3-0).

**2. BOA 2015-05. Consideration and action on a variance request from the current standard used to determine the 35' maximum building height as measured from the average natural grade to the previous standard used to determine the 35' maximum building height as measured from the average finished grade.**

Ronda Kippen presented a report and indicated that the applicant has submitted a request for a variance from the current County standards used to calculate the maximum building height for a single family dwelling in the A-1 zone. The lot was subdivided and recorded in 2005. At that time our standards for building heights was measured from finished grade. After looking at the site, it was evident that because the sewer line was buried 30 ft. from the road and the topography of the area slopes downward toward the applicant's lot creating a natural drainage area. In order to drain surface runoff from Lot 1 into the future storm detention area, the building pad on Lot 1 will need to allow the surface runoff to be collected into the future storm drain improvements. The applicant would like to import approximately six to seven feet of material to create an acceptable building pad in order to reduce the risk for surface and underground flooding. However, by doing so, the applicant will be starting six to seven feet higher than the "existing/natural grade" resulting in a building height according to the current standards of approximately 41'. If the applicant is granted the variance from the current standard to calculate building height and is permitted to use the average finished grade to calculate the final building height; the final building height will be 34' 4 5/8".

After looking at the contours, it is a gradual slope. It had piped ground water and everything drains to an area. After designing the home, there was some confusion regarding the mitigation of potential flooding requirement.

After speaking with the Engineers, it looks like there may be grounds to request a variance. By building the property up, they will be able to have a basement. She looked at the five criteria for granting a variance. Most of the homes are already built up and 35 ft. from existing grade.

The applicant would like to import approximately six to seven feet of material to create an acceptable building pad in order to reduce the risk for surface and underground flooding. The County Engineering Division, the sewer line that the applicant will be connecting to the County right of way is only six feet below grade.

The request for a variance from the current County standards used to calculate the maximum building height for a single family dwelling in the A-1 zone has been reviewed against the following criteria: "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." The building lot is significantly lower in elevation than the adjacent property owners and roadways.

Staff recommends approval of the variance request from the current standard used to determine the 35' maximum building height as measured from the average natural grade to the previous standard used to determine the 35' maximum building height as measured from the average finished grade. Staff believes that the special circumstances by allowing the property owner to build the property up will mitigate possible flooding risks from ground water, surface flooding and sewer. By granting the variance is essential to the enjoyment of the substantial property rights of the property owner. There is a potential risk of the surface flooding and the irrigation ditch adding to that, however, we cannot say that they cannot have a basement as their neighbors are allowed to have. Based on the fact that the upper homes were built under a prior ordinance, it doesn't seem to take away from the General Plan or public interest of this area. The spirit of the Land Use Code is observed and substantial justice is done.

Ronda Kippen received an email from Brady Wright, an adjacent property owner, who indicated he was in favor of this request and approval of the building permit.

Celeste Canning indicated that in looking at the home across the street, she asked if they had records regarding the adjacent home and knew what the elevation was for that home. Ronda Kippen indicated that she could not find these records but believes that they are looking at the finished grade of approximately 35 ft. Celeste Canning indicated that she assumes that the County Commission would change the code eventually. How does staff interpret the difference in code and which code regulates? What is the difference that the Planning staff sees?

Sean Wilkinson indicated that they measure maximum building height from the lowest natural grade to the peak of the roof and the highest point of the natural grade to the peak of the roof, and then they take the average.

Chair Mumford said with is particular case, if they have an approximately 5 ft. variance, staff would have taken the average from the low to the high, and Sean Wilkinson replied affirmatively. Celeste Canning replied that it then can be 80+ feet? Sean Wilkinson replied affirmatively.

Celeste Canning asked if Mrs. Kippen was confident that all the homes there have basements. For the homes in that neighborhood, have they all brought in fill and were built up? Ronda replied yes.

Paul Keiler, President of Deseret Land Design, 4184 W 1975 W in Plain City, said that he was a landscape architect consultant on this plan. He indicated that he looks at that the whole development; there are manholes, three to four feet out of the ground. Generally when a developer starts a subdivision, they will adjust the natural grade by at least 2-3 percent.

No comments were made in opposition.

Joe Sadler, Habitations Residential Design Group, indicated that he was part of the team that designed the home. He has dealt with height restrictions all over the state. Chair Mumford asked as you view the front to the highest roof line, is that actually 41 feet? Mr. Sadler replied no. The finished grade will be well within the standards. The house across the street is higher than this home. This home will be less invasive and will be about a story and a half. The pitch of their roof line is built into the home more. There is less full two stories such as you will see from the home across the street. This home is more of a European style than a traditional style.

Chair Mumford asked the height to the top of the fireplace. Joe Sadler indicated that from the ridge of the roof to the average finished grade. They are earth sheltering the walk-out basement which brings their averaged finished grade to 34 ft. This home in relation to the new road will not be a home that will be projected. While they may encourage the County to look at code tonight, they have this variance request. Mr. Sadler said that it is 41 feet as measured from average natural grade. It is just all one level? They need a variance of 6 ft. to meet the current code.

Celeste Canning indicated that she is in favor of the variance, but is not sure of the grounds for a variance. She is not sure that this is an undue hardship to be able to have a basement.

Rex Mumford asked if there was no basement here, would this house exceed the height. Ronda Kippen indicated that it may exceed the requirement.

Nick Weaver, 682 Ogden Canyon, stated that he is with RW Custom Homes and is the project manager on the job. He indicated that they build a lot of this style of home. This doesn't officially have a second story. It is called a half story, because there is room within the roof that is producing square footage for the house. The thing that is possible with this house is putting it into the ground. As the builder he would force the home owner to put this house down into the ground with all this water. The house across the street is 8 ft. higher than this house will be. This roof is 10-12 pitch because part of the height is living space. This roof line will be almost identical to this roof line. Is the home next door also on fill? Mr. Weaver replied yes and reported that the starting point of the other homes in the area is higher than this house.

Celeste Canning asked that if Mr. Weaver built a home on this lot, would he still be doing the same amount of fill. Nick Weaver replied yes. Mrs. Canning indicated that he looks at the configuration of the lot and the surrounding roads and the utility infrastructure that is being installed. People do not realize that there is a hole that needs to be filled in order to build the home. She finds that the fill and size of the home is commiserate to others in the area. The style of the home is also similar,

Chair Mumford asked if the roads were built up five feet. Ronda Kippen indicated that the new road coming in for phase 4 will be built up. The property elevation is 4237'.

**MOTION:** Phil Hancock moved to approve BOA 2015-05 based upon the staff's eight listed reasons as found in the staff report. He has built in many areas and he can tell that the way this is interpreted by the staff is the correct way and the intended way. Nobody knows what the original grade was in many of these developments and it doesn't make any difference. It does not affect the neighborhood. This isn't an A-typical home for the area. It meets an acceptable design for this development and many around the county.

Celeste Canning amended the motion to take out the reference to eliminating the intent of the ordinance. Phil Hancock stated that he believes that staff's interpretation of this proposal is correct. He agrees with staff's eight reasons for granting the variance.

**AMENDMENT:**

Celeste Canning moved to amend the motion to eliminate the reference to the intent of the ordinance and to the building height ordinance. She thinks that their decision can stand without reference to these issues. Chair Mumford indicated that he agrees with Celeste Canning and believes that the ordinances are there until they are amended. She believes they can leave it out. The motion was seconded.

**VOTE:** A vote was taken and Chair Mumford indicated that the motion carried by a unanimous vote with Celeste Canning, Phil Hancock and Chair Mumford all voting, "aye."

There being no further business, the meeting adjourned at 5:21 p.m.

Respectfully Submitted,

Sherri Sillitoe, Secretary, Weber County Planning Division

Minutes of the Board of Adjustment held August 20, 2015 in the Weber County Commission Chambers, 2380 Washington Blvd., Ogden UT

Members Present: Celeste Canning, Phil Hancock, Bryce Froerer, Deone Ehlers-Rhorer

Staff Present: Sean Wilkinson, Planning Director, Ronda Kippen, Planner, Ben Hatfield, Planner; Chris Crockett, Legal Counsel; Kary Serrano, Secretary

*\*Pledge of Allegiance*

**MOTION:** Celeste Canning nominated Phil Hancock for Chair Pro Tem. Bryce Froerer seconded. A vote was taken with members Celeste Canning, Bryce Froerer, Deone Ehlers-Rhorer, and Phil Hancock voting aye. Motion Carried (4-0)

**Regular Agenda Items**

- 1. BOA 2015-06: Consideration and action on a request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream. Property is located in the Forest Valley-3 (FV-3) Zone at approximately 1537 S 8900 E, Huntsville UT (Brian D. Wilson, Applicant)**

Ronda Kippen said that the applicant has requested for a 25 foot variance to the 50 foot stream corridor setback along a natural ephemeral stream as identified in the Ogden Valley Sensitive Lands Stream Corridors map. The subject property is located at approximately 1537 S 8900 E in Huntsville UT and is identified on the Weber County records as a 3.5 acre parcel. This property was actually considered a lot of record, it was established prior to the county adopting zoning, and it had been broken out prior to that date. It did have some development entitlements that went along with it. The applicant would like to construct a new storage building on his parcel and has identified the location of the proposed structure 25 foot away from a protected stream corridor. Those corridors range from anywhere of 100 feet to 50 feet, depending on what stream it is, and those setbacks are determined from the high water marks. Upon reviewing this application, staff looked at the adjacent properties along with this property to see if it was unique in nature. The stream corridor setbacks are actually put in place to protect the water features from the possible flooding hazard due to wear and tear. The code actually states that, *“(1) 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.”*

Ronda Kippen said that accessory structures are allowed as a permitted use in the FV-3 Zone. In looking at the property this is where the applicant has proposed to place the structure which is actually on the north side of the stream and the setback is 25 feet. The existing structure was built prior to the adoption of the stream corridor setback, and when the county adopted those setbacks, they actually exempted the existing structures from the easement to meet those. However, if Mr. Wilson wanted to add on to the existing structure, he would not be able to make that a more nonconforming setbacks and he would have to add on the other side of the structure. In the area where he wants to add on its 25 feet, and the analysis of the site and the additional areas there are developable, it appears that there is more than adequate room. He has approximately three acres of property on the other side of the river channel and the property is very flat or anything else that might impede additional development on the other side of the river. It is just a choice to want to develop on the other side of the riverbank and due to that staff recommends denial of this request because this does not meet the five criteria for granting a variance has been met.

Brian D. Wilson, Applicant, 1537 S 8900 E, Huntsville, said that the major problem was that this ordinance was not in place 2003 when he built his existing structure. If it had been he could have positioned that differently where he could make the two buildings work; but since it wasn't, the proposed location of the new structure is going to completely block access to his existing building, if he maintained the 50 foot setback. He does not believe that it would be wise to put it in the back section of the property; he has talked to staff because that is a flood plain, even though it doesn't show it on the map. Several years ago Weber County had to come in and had to dig a relief ditch for the second property to the north, and that is shown on the map. In this area in a high water year, water comes over the bank and comes down through this area where the county built the relief ditch and sends the water back into the river. His property in this area is higher than this area and flooding has not been an issue on this side of it.

Deone Ehlers-Rhorer asked how about putting it in that area where it looks like he has something planted. Brian Wilson replied that he considered that, but is not able to maintain 20 foot side setback if he did that there. The desired location he could maintain there but the 50 foot, and he could maintain the 25 foot which is what his existing building is from the creek, and he would not consider putting in this area because of the water issues.

Deone Ehlers-Rhorer said that he could add on toward 8900 East but he could not add on towards the river. Brian Wilson replied that is correct but he would not like to add on his existing building and construct a new building in the area he asked for. He can meet the entire requirement except for the 50 foot from the creek, and from his understanding it was before the ordinance was put in place, but his is already in violation of that with the building that he has now, and he doesn't understand what the complications would be from another building there. All of the adjacent property owners have less than 50 feet from the creek as well, including the neighbor to the south where their primary residence is less than 50 feet from the creek.

Deone Ehlers-Rhorer asked if the neighbors had a grandfather clause because that ordinance was passed in 2003 and those were all prior to 2003. Brian Wilson replied that from what he was told this ordinance was put in place in 2005, and all of these existing structures were put in place before that, and for whatever reason they want to maintain the 50 foot clearance, so if there is a flood there is going to be multiple buildings that are in violation of that.

In reference to a question by Bryce Froerer, Brian Wilson said that was something that he had considered and a couple of the staff members came up and looked at that. The big issue with that it puts the building directly in front of the entry way to his existing building. If he maintained the 20 foot side setback and the 50 foot setback from the creek, that would give him approximately ten feet directly in front of the bay door of his existing building,, would render that completely unusable.

Deone Ehlers-Rhorer said she needed clarification, as far as the other buildings Mr. Wilson was talking about, with the grandfather clause, if something were to happen with the buildings, they would not be able to rebuild. Ronda Kippen replied that they would be able to and they have the ability to reconstruct structures that were damaged due to flood or fire in the exact same location and our code allowed for those instances. They can't make it more conforming but they can build it closer to the structure and when she had discussed building on this side with Mr. Wilson, he did express that water came through there a few years ago, and everybody was being flooded and the option would be to build that up so water would not be coming into the finished structure.

**MOTION:** Deone Ehlers-Rhorer moved that BOA 2015-06 consideration and action on a request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream be denied based on the five criteria that the board must consider in making such variance not being met in this case. Bryce Froerer seconded.

**VOTE:** A vote was taken with Celeste Canning, Bryce Froerer, Deone Ehlers-Rhorer and Chair Pro Tem Hancock voting aye to deny. Motion Carried (4-0).

**2. BOA 2015-07: Consideration and action on a request for a 28 foot variance to the 40 foot side yard setback standard for large accessory buildings. Property is located in the Agricultural-2 (A-2) Zone at approximately 6681 W 200 N, Warren UT (Jason Kelley, Applicant)**

Ben Hatfield said they received an application where the, Jason Kelley is requested a 28 foot variance to the standard of 40 feet for side yard on a large accessory building. In applying for a building permit for an additional detached large garage, the applicant's site plan proposed setbacks that did not conform to the standards of the Land Use Code. In essence, for large garages such as this they are to be 40 feet from the front lot line and for a corner lots, 40 feet from the side lot line bordering a street. The applicant stated in his request, the building would be 12 feet from the property line. The applicants plan for the property is to have the rear area continue to be flood irrigated and be a pasture for his livestock. The property also has a septic system and drain field behind the home limiting a buildable location in that area. The existing property has landscaping that would be impacted if an increased setback were to be required. The applicant's request for the 28 foot variance to build the garage near the roadway is based on the following items:

- The property is flood irrigated and the placement of a garage in that area would disrupt the flow of water through the property.

- A septic system and drain field currently exists utilizing some of the lot's buildable areas.
- Existing landscaping would be impacted.

Ben Hatfield said that Title 102 Chapter 3 of the Weber County Land Use Code 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 the criteria have been met listed in the staff report. Staff's analysis and findings are listed in items a through e listed in the staff report. Standards for Large Accessory Buildings have been established in the Weber County Land Use Code due to the public's request and follow the goals and policies of the Western Weber and Ogden Valley General Plans. Staff recommends denial of the variance for a 28 foot variance to the side yard setback for a large accessory building based on its inability to comply with the applicable variance criteria discussed in the staff report.

Jason Kelley, applicant, 6681 W 200 N in West Warren, said that he is here looking for a solution for a problem and not trying to create any additional problems and any input that the board would have would be fine. Initially he requested only a 12 foot variance because that seemed like the easiest way to build an entry minimizing as much impact on his property as possible. He is not dead set on that variance and if he could, he would make that building smaller, and move it a little farther to the east without it impeding, and he doesn't mind ripping out that landscaping that was presented. The biggest part of it is that he believes that under the current code, he would be able to build a 48 x 20 building instead of 48 and be 20 foot off of the property line without any restrictions or hesitations. His point is that he didn't believe there would be any additional impacts by him extending further to the east, up to the public or safety at a 20 foot. What they are really talking about is an eight foot difference between where he wants to build it and what he could build legally. The main reason for the placement of the building where it's at, if he built anywhere in this area, he would be forced to raise the ground up by at least 12 inches. By doing so, as they flood to irrigate the pasture, it will cause the water to drain onto his neighbor's properties, which he doesn't believe that it would be legal. They are the only house in this subdivision that is a drain every property in the subdivision. In the winter time his property has to open up in this area, in order for the water to drain in order for that underground piping to evacuate all that water into that drain ditch which is located in this area. He feels like the 40 foot that he has in the drainage ditch is plenty enough room on top of the 12 feet additional from the property line, which gives them a total of 52 feet from the road, before the building even starts. If there is something that helps him get an approval so he could start building on this, he would be grateful.

Bryce Froerer said from his understanding, he measured from the road to the property line and from the property line to the road which gave him the 40 foot and the additional 12 feet is from the property line to the back. Jason Kelley replied that is correct and in reading the code it states 40 feet and it doesn't say anything in the code that it's from the property line, it may be implied according to everybody and from what he understood, it just states that it is 40 feet. So he could do some code interpretation possibly there.

In response to Mr. Froerer's question, Jason Kelley said that it would be roughly about 10 feet. They have seen Option 1 with the 12 foot variance, and with the 20 foot variance it would have him abut against the leech build and the septic tank. If he were to go 40 foot variance it would put him into the leech build and the septic tank. He was told that there are other places he could build the building, but he couldn't see anywhere else he could build the building without affecting the natural flow of the irrigation water and drainage across his property.

Bryce Froerer asked how large the building was. Jason Kelley replied that he is looking for a 36 x 48, then he is going to put a 12 foot porch off of the east side of it for an outdoor living area.

Janet Kelley, 6681 W 200 N in West Warren, said she didn't understand the reasoning if she built a smaller building in the exact same spot, the impact on the land is the same, if she builds a 28 x 48 or a 48 x 48 building it would still be in the same spot. She didn't understand the impact on the land and asked for clarification. Jason Kelley added what she is trying to say that the 48 feet street frontage is still going to be 48 feet. Whether it's 48 feet or whether it goes behind the house where nobody else could see it. It's 48 feet along the road whether it's 20 feet behind the house or 36 feet behind the house. Celeste Canning said that is not what this board is concerned about; it's not how long the building is, or what they do inside the property, it's how close they are to the property line. They don't care about anything else, ultimately that's what it is, how close are they to the property line, what would the impact be being that close to the property line, and what are the reasons that they can't do it another way.

Janet Kelley asked that they also run livestock on the other portion of their property, so where are they supposed to put their livestock. Deone Ehlers-Rhorer that the livestock is able to go to the property line, but their biggest issue is because they have a lot that is by 6700 West and there are future plans for 6700 West. If they were located somewhere else, they may not have easement and setback requirements, and when they purchased the property they didn't realize what the building easement were until they decided to start development, and unfortunately that is something that people come across all the time.

Janet Kelley said that she didn't know what their building easement was when they built their house, and they can argue that their neighbor, who doesn't live on a corner lot, is afforded the right to build his building wherever he wants, and because she does have a corner lot, she is not afforded the same building access. Deone Ehlers-Rhorer replied that it is not so much the corner lot as it is the main road that they are up against.

Eric Anderson, 4357 S 4300 W in West Haven, said that he would be the builder on the lot. What Mrs. Kelley was trying to portray was this lot line, if this was a 20 foot wide building by 48 foot building, it would be allowed to be put on this with a 20 foot setback, so it's not going to impact anything else. They are adding to the opposite side of the building, and if they wanted to do a 28 x 48 building, they could actually start 20 feet from the property line. The building would actually exist in this area and that part would not be building.

Chair Pro Tem Hancock said that there seems to be a little confusion here; the setback applies to everybody, the distance of the setback from a corner lot than it is on the other lot that is not on a corner, and nobody can build anywhere they want to on a lot. The Weber County Zoning Ordinance has specific requirements for setback on property lines whether it's front, side, or rear property lines. The fact that the building may affect that, it's not that staff is being unfair, but they have a specific ordinance that are in place, and the Board of Adjustment has to seriously meet in order to give merit to any request. He read the information that staff submitted and felt that they did a very good job as to why staff came to their decision based upon the ordinances that are currently in place which this board by law have to follow.

**MOTION:** Deone Ehlers-Rhorer said that they are bound by five criteria to grant a variance and based on that she moved BOA 2015-07 consideration and action on a request for a 28 foot variance to the 40 foot side yard setback standard for large accessory buildings to deny based on the fact that this does not meet the criteria that they have to meet. Celeste Canning seconded.

Courtlan Erickson, Legal Counsel suggested having more specific finding for a factual basis for a motion like this; for instance staff made certain findings and analysis listed here with a, b, c, d and e. If there are particular comments there or portions of that, that are the basis for your motion and findings, you can point that out and be as general as for the reasons explained in staff's analysis a through e. Something like that, which explains the basis for your motion, and that would preserve a better record. He would encourage being clear as to your motion.

**FRIENDLY AMENDMENT:** Deone Ehlers-Rhorer moved to amend the motion to include staff's recommendation.

**FRIENDLY AMENDMENT:** Celeste Canning moved to include that there is no undue hardship here.

**AMENDED MOTION:** Deone Ehlers-Rhorer said that they are bound by five criteria to grant a variance and based on that she moved BOA 2015-07 consideration and action on a request for a 28 foot variance to the 40 foot side yard setback standard for large accessory buildings to deny based on staff's recommendations and no undue hardship be met as part of the criteria that as a board must approve. Bryce Froerer seconded. A vote was taken with Celeste Canning, Deone Ehlers-Rhorer, Bryce Froerer, and Chair Pro Tem Hancock voting aye to deny. Motion Passed (4-0)

3. **Adjournment:** The meeting was adjourned at 6:30 p.m.

Respectfully Submitted,

Kary Serrano, Secretary;  
Weber County Planning Commission





# 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 variance from setback requirements, lot area requirements, lot width requirements, and lot access requirements on parcels with tax ID 20-019-0001, 20-019-0003, and 20-019-0004.

**Agenda Date:** Thursday, January 14, 2016

**Applicant:** Richard Vance, Jeffrey Callahan, and Colby Keddington

**Authorized Agent:** NA

**File Number:** BOA 2015-08

### Property Information

**Approximate Address:** 940 and 942 Ogden Canyon Rd

**Project Area:** Tax ID #20-019-0001 and #20-019-0004 is approximately 9,775 sqft; Tax ID #20-019-0003 is approximately 9,751 sqft.

**Zoning:** F-40

**Existing Land Use:** Residential/Forest

**Proposed Land Use:** Residential/Forest

**Parcel ID:** 20-019-0001, 20-019-0003, and 20-019-0004

**Township, Range, Section:** T6N, R1E, Section 16

### Adjacent Land Use

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

### Staff Information

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

**Report Reviewer:** SM

## Applicable Codes

The Weber County Land Use Code (LUC) provisions related to this requests are as follows:

- LUC §101-1-7 (Land Use Code definitions.)
- LUC §102-3 (Administrative provisions for the Board of Adjustments.)
- LUC §104-9 (The forest zones F-5, F-10 and F-40.)
- LUC §104-28 (The Ogden Valley sensitive lands overlay district.)
- LUC §106-1 (General provisions of the Subdivision Code.)
- LUC §108-7-29 (Supplemental regulations for lot access via private rights-of-way.)
- LUC §108-8-3 (Access regulations for lots in subdivisions.)
- LUC §108-12 (Provisions for noncomplying structures, nonconforming uses, and nonconforming lots.)

## Summary and Background

The applicants own three parcels in the Wheeler Creek area in a subdivision called the Wilcox Camping and Boating Resort, platted in 1910. There is one single family residence on two of the three subject parcels. Both residences were created prior to the adoption of current zoning.

The Wilcox Camping and Boating Resort has had an extensive and somewhat confusing history of parcel line changes. It is bisected by the Wheeler Creek, which has shifted several times over the last 106 years leading to the need for several accesses serving the existing residential uses other than the original approved access. The subdivision has also been affected by the creation of Pineview Reservoir dam and resulting realignment of SR-39 (Ogden Canyon Road). These historic points have culminated into what appears to be the last final approved configuration of the subject property, which was established in 2004 as a single parcel with two residences.

The final approved configuration of the subject property does not match the three parcel configuration of current ownership. After the approval of the 2004 configuration the parcel was unlawfully divided into three separate parcels in 2005 and ultimately purchased by two separate parties (the applicants). Upon discovering that the parcels were not lawfully created and for which no new land use approvals can be issued<sup>1</sup>, the applicants are now seeking reprieve from the law by seeking variances from the various applicable site development standards so that they may legally subdivide the property and legitimize the existence of the parcel's separate ownership.

Considering that the variances are only necessary due to a past infraction, staff is recommending denial of the request on its face. However, if the applicants are willing to provide alternative parcel line configuration of the property and/or surrounding properties (owned by them) in a manner that does not create any new building lots from what has been approved, the recommendation may be more favorable.

## Analysis

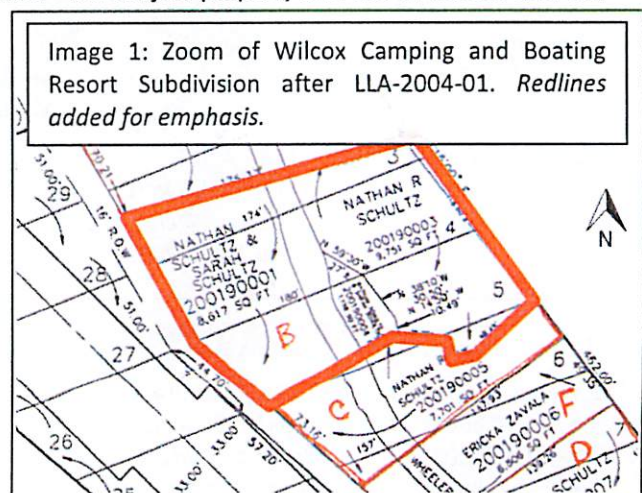
**Zoning requirements for the Subject Property:** The subject property is located in the F-40 zone. The F-40 zone is intended for forest uses<sup>2</sup> that require a minimum lot size of 40 acres and a minimum lot width of 660 feet<sup>3</sup>. The minimum setback standards for single family dwelling units in the F-40 zone are: front = 75 feet, side = 40 feet, rear = 30 feet.<sup>4</sup> Only one dwelling structure is permitted on one lot<sup>5</sup>.

The applicant's parcels are substantially smaller than these standards.

**Legally established nonconforming lot standards, setbacks, and uses:** The subject property and the structures thereon contain nonconforming lots standards, setbacks, and uses that were legally established on the property prior to 2004. The subject property can be observed as "Parcel B" in Image 1<sup>6</sup>. "Parcel B" was a previous configuration of the property as approved in a 2004 lot line adjustment. However in 2005 the parcel was divided into three separate parcels: tax ID #20-019-0001, #20-019-0003, and #20-019-0004.

Prior to these divisions "Parcel B" contained approximately 0.49 acres (21,402 square feet), was approximately 119 feet wide (at the frontage), and contained two single family residences, neither of which complied with certain building setback standards.

Despite the nonconformities, the 2004 lot line adjustment was approved and the two residential uses were allowed to continue on the same lot based on the nonconforming provisions of Land Use Code.<sup>7</sup> Image 2 depicts Lot 4 of the Wilcox Camping and Boating Resort Subdivision from 1970<sup>8</sup>, which is believed to be in the same configuration as the original 1910 subdivision plat<sup>9</sup>.



<sup>1</sup> See 108-7-26.

<sup>2</sup> Pursuant to LUC §104-9-1 the purpose of the forest zones are to: "... protect and preserve the natural environment of those areas of the county that are characterized by mountainous, forest or naturalistic land, and to permit development compatible to the preservation of these areas," and to "... promote the use of the land for forest, fish and wildlife and to facilitate the conservation of the natural resources, vegetation and attractions; promote the use of the land for forest, fish and wildlife and to facilitate the conservation of the natural resources, vegetation and attractions; reduce the hazards of flood and fire; prevent sanitation and pollution problems and protect the watershed; provide areas for private and public recreation and recreation resorts; and provide areas for homes, summer homes, and summer camp sites."

<sup>3</sup> See LUC §104-9-4 for a full review of the site development standards.

<sup>4</sup> See LUC §104-9-4 for a full review of the site development standards.

<sup>5</sup> Pursuant to LUC §101-1-7, the definition of "lot" prohibits more than one dwelling structure on one lot.

<sup>6</sup> See Exhibit B for the full document depicting the 2004 lot line adjustment that created the legal "Parcel B."

<sup>7</sup> See LUC §108-12, which provides that a legally established lot, setback, or land use that predated laws that now make them nonconforming are allowed to continue to exist.

Approval of "Parcel B" occurred as a result of Lot Line Adjustment File #LLA-2004-01. This decision is the last known Land Use Authority approval regarding the configuration of the property.

**Unlawful divisions of land and the loss of the legal nonconforming status:** In 2005 the property was divided into the three separate parcels in which they are configured today. There is no evidence in the record that this division occurred in compliance with the subdivision and zoning standards at the time, nor do they comply with the standards of today<sup>10</sup>. The divisions left one home on tax ID #20-019-0003, which is approximately 0.22 acre (9,751 square feet), and the other on tax ID #20-019-0004, which is approximately 0.03 acre (1,158 square feet). Tax ID #20-019-0001, which is approximately 0.20 acre (8,617 square feet) does not have any buildings on it. The applicants are considering tax ID #20-019-0004 and #20-019-0001 as one parcel, however, they are currently held as two separate parcels that could be conveyed separately without additional divisions. The Land Use Code would not treat them as one parcel in their current state.

Even though the 2004 "Parcel B" can be considered a legal nonconforming lot, the three newer smaller parcels have lost their nonconforming status due to the 2005 unlawful divisions. In or around 2012 the properties were purchased by the current owners, who are the applicants. In 2014 the owner of tax ID #20-019-0003 requested a "rebuild" letter from the County in order to deem the lot legal nonconforming, however,

Image 2: Zoom of Wilcox Camping and Boating Resort Survey dated October 2, 1970. Redlines added for emphasis.

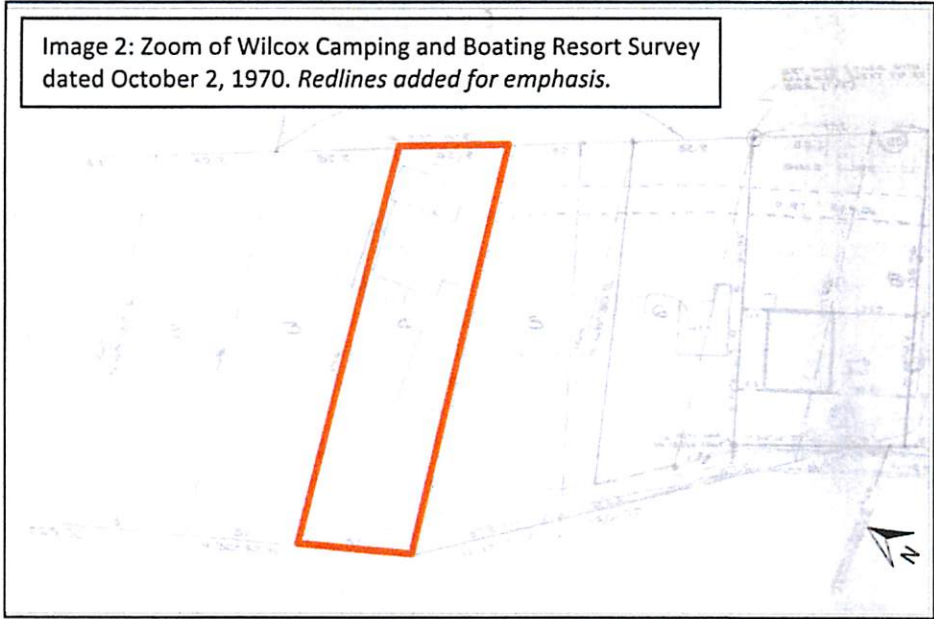
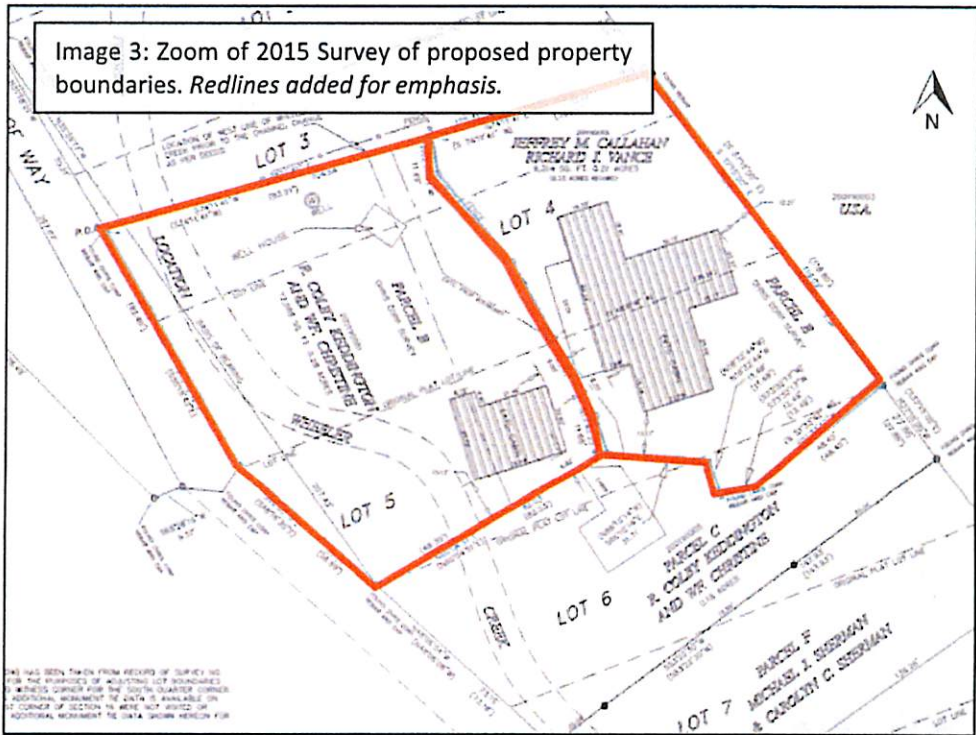


Image 3: Zoom of 2015 Survey of proposed property boundaries. Redlines added for emphasis.



<sup>8</sup> See Exhibit C for the full 1970 survey of the Wilcox Camping and Boating Resort Subdivision. It is described as depicting changes to lots 7 and 8 of the original subdivision, the changes of which are unrelated to this property, except to show survey history of boundaries in the area.

<sup>9</sup> See Exhibit D for the original 1910 Survey of the Wilcox Camping and Boating Resort Subdivision.

<sup>10</sup> Pursuant to LUC §106-1-2 the scope of the subdivision code says "No person shall subdivide any tract of land which is located wholly or in part in the county, outside of incorporated cities or towns except in compliance with this title. No person shall sell or exchange or offer to sell or exchange any parcel of land which is a part of a subdivision of a larger tract of land, nor offer for recording in the office of the county recorder any deed conveying such a parcel of land, or any interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title; provided, that this title shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of the subdivision regulations adopted in Weber County on January 11, 1952."

because of the 2005 unlawful divisions the request resulted in a determination that the parcel was not buildable.<sup>11</sup> It does not appear that any formal applications have been filed for tax ID #20-019-0004 and #20-019-0001, even though some discussions regarding the legal status of them have occurred with staff in the Planning Division.

**Request for variance:** The applicants are now requesting a variance from zoning standards in order to deem the lots “legal.” The primary purpose cited in the application is for the purposes of financing. No new development on the properties is anticipated at this time.

It should be observed that the survey map provided in the application, as seen in Image 3<sup>12</sup>, does not follow existing parcel boundaries but rather emphasizes proposed adjusted boundaries between the three parcels. It consolidates tax ID #20-019-0001 and #20-019-0004 together (herein referred to as the “western lot”), and adjusts the common boundary between them and tax ID #20-019-0003 (herein referred to as the “eastern lot”). If the variances requested are approved the applicants are seeking approval based on this survey, and thus the following variance analyses is based on the survey as the final configuration of the property that should be platted.

Due to the property’s location, proximity to Wheeler Creek, and access via a private right-of-way, there are numerous site development standards applicable to development on it for which variances are necessary to fulfill the applicant’s request.

Table 1	Applicable Ordinance Standards				Existing	Proposed
	F-40 Zone (LUC §104-9-4)	Private Right-of-Way Setback (LUC §108-7-29(3){b})	Stream Corridor Setback (LUC §104-28-2(b){1}{b})	Nonconforming Alternative (LUC §108-12-13)		
<b>Western Lot: Tax ID #20-019-0001 and #20-019-0004</b>						
Area:	40 Acres				9,775 Square Feet	12,088 Square Feet
Width:	660 Feet				110.4 Feet	110.4 Feet
Front Setback (From West Side of Lot):	75 Feet				44.8 Feet	44.8 Feet
South Side Setback:	40 Feet		5 Feet one side, 8 Feet other		6.8 Feet	6.8 Feet
North Side Setback:	40 Feet				78.8 Feet	78.8 Feet
Setback From Private Right of Way		30 Feet			44.8 Feet	44.8 Feet
Setback from Wheeler Creek			75 Feet		Approximately 4.1 Feet	Approximately 4.1 Feet
Rear Setback:	30 Feet				10.5 Feet	9 Feet
<b>Eastern Lot: Tax ID #20-019-</b>						
Area:	40 Acres				9,751 Square Feet	9,314 Square Feet
Width:	660 Feet				119.02 Feet	119.02 Feet
Front Setback (From East Side of Lot):	75 Feet				12.2 Feet	12.2 Feet
South Side Setback:	40 Feet		5 Feet one side, 8 Feet other		13.2 Feet	13.2 Feet
North Side Setback:	40 Feet				34.1 Feet	34.1 Feet
Setback From Private Right of Way		30 Feet			0.21 Feet	0.21 Feet
Setback from Wheeler Creek			75 Feet		Approximately 55.8 Feet	Approximately 55.8 Feet
Rear Setback:	30 Feet				6.2 Feet	8.7 Feet

Table 1<sup>13</sup> compares the existing standards of the zoning ordinance with the standards provided in the application survey. The first column provides the site development standards of the F-40 zone<sup>14</sup>, the second provides standards relevant to building setback along private rights-of-way<sup>15</sup>, the third column provides the standards for building setback from stream

<sup>11</sup> See Exhibit E to review the “Notice of Non-buildable Parcel” recorded on the property.

<sup>12</sup> See Exhibit F for the full 2015 Survey plat by Mountain Engineering.

<sup>13</sup> For the purposes of this table tax ID #20-019-0001 and #20-019-0004 are being combined based on the applicant’s proposal to combine them if the variances are granted, but it should be observed that the side and rear setbacks of the residence on tax ID #20-019-0004 are significantly smaller if that parcel is allowed to continue to exist separate from tax ID #20-019-0001.

<sup>14</sup> See LUC §104-9-4.

<sup>15</sup> See LUC §108-7-29.

corridors<sup>16</sup>, the fourth column provides alternative building setback standards as allowed by the Land Use Code for nonconforming lots<sup>17</sup>, the fifth column provides for the approximate existing conditions on the properties, and the last column denotes the conditions as proposed by the applicant's survey<sup>18</sup>. The highlighted cells indicate a measurement that is changing from current conditions to the conditions proposed in the application survey. These differences are important to consider given that the standards are already nonconforming. The BOA must determine whether creating any *greater* nonconformity is keeping with the spirit of the ordinance.

The setbacks for the lots were not as clearly determined given that the code-required access to the subject properties is unclear. This is because it is difficult to determine which part Properties within subdivisions are generally required to gain access across the front property line.<sup>19</sup> However, the original Wilcox Camping and Boating Resort Subdivision<sup>20</sup> appears to have platted access to the subject properties along a private right-of-way on the western side of the western lot despite the perceived front of the residence thereon being oriented eastward. This would mean that the front property line of the western lot is on the western side, which is on the other side of Wheeler creek. However, because of Wheeler Creek, the residences of this subdivision currently have access from a private right-of-way<sup>21</sup> that is on the eastern side of the eastern lot. The definition of "front lot line" specifies that:

*"The term "front lot line" means the boundary line of the lot which abuts a public dedicated street or other legal access from which the front yard setback is measured which determines the lot width and where ingress and egress generally is made to the lot."*

Given this definition, the site's current conditions, and the original 1910 subdivision plat, it seems most simple to consider the western lot line on the western lot to be the front lot line, and the eastern lot line on the eastern lot to be the front lot line. The information tabulated in Table 1 is based on this consideration. If it is acceptable to determine the front line this way, the sides and rear setbacks follow as is typically defined by the Land Use Code.<sup>22</sup>

*Area, width, and setback variances.* To meet the applicant's request, the area, width, and certain setback requirements for both lots, as shown in the first three columns of Table 1, will need to be varied to the measures provided in the last column of Table 1.

*Standards for approval of the variances.* The standards for approval of a variance are as follows<sup>23</sup> (in italics) with staff evaluation of the request inserted (in standard font). The BOA must find that the variance meets all five criteria in order to be approved. In the application narrative<sup>24</sup>, the applicant's provide their position regarding the application's compliance with these standards. Reviewing their assertions in tandem with staff evaluation could prove useful in making a final determination.

- 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.*
  - *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.*
  - *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.*

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<sup>16</sup> See LUC §104-28-2.

<sup>17</sup> See LUC §108-12-13.

<sup>18</sup> See Exhibit F for the full 2015 Survey plat by Mountain Engineering (application survey).

<sup>19</sup> See LUC §108-8-3.

<sup>20</sup> See Exhibit D.

<sup>21</sup> A right-of-way was granted for access to the eastern side of the properties as provided for in the quit claim deed recorded as Entry #1996931 in the office of the County Recorder.

<sup>22</sup> See LUC §107-1-1 for definitions of "side lot line" and "rear lot line."

<sup>23</sup> See LUC §102-3-4.

<sup>24</sup> See Exhibit A.

The applicant provides a useful argument that there is a hardship that comes from circumstances peculiar to the property. Staff agrees that the circumstances surrounding the specific lot configuration are indeed peculiar. However, the peculiarity of it is a result of the aforementioned 2005 divisions of land that were conducted without County oversight – contrary to adopted law. Even though the division occurred prior to both applicants' ownership of the property, this specific peculiar circumstance was self imposed by a previous property owner, the result of which has run with the land. Other peculiarities related to the property, such as the proximity of the buildings to the stream, access to the property, or the noncomplying lot area or lot width are irrelevant in this case because if the unlawful divisions had not occurred, or more appropriately stated, if the current configuration of the property was returned to the last known legal configuration no variance would be necessary because all nonconformities would be legal due to the noncomplying structure, and nonconforming use and lot allowances of the Land Use Code.<sup>25</sup>

It may be more appropriate to consider a variance request of this nature if the reconfiguration of property lines in the area did not create a new building lot in the manner that this request does. Staff recommendation will center on this point.

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

- 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.*

Staff agrees that there are special circumstances attached to the property, however it seems the special nature of the circumstances arise from the unlawful divisions of 2005. If the property was returned back to its last known legal configuration it could be argued that not only would the property owner enjoy the same privileges as other land owners in the same zone, they would also enjoy an additional nonconforming right to use the land for two dwelling units, a benefit that is not permitted for newly established uses 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.*

The right to possess land that is considered legal is, in this case, merely a manner of conformance with adopted laws. The granting of the requested variances is a means to make the unlawful creation of the properties lawful; however, it is a decision that could delegitimized the purpose of the laws prohibiting such activities. The essential property right being withheld at this time could be possessed again as a nonconforming use, structure, and lot, by returning the property to its 2004 approved configuration.

Alternatively, if the subject properties could be reconfigured with other properties in the area in a manner that reduces the number of parcels to the amount approved in the 2004 lot line adjustment, each with an area and width that do not generally increase the level of nonconformity of the lot or structures, then variances may be deemed appropriate.

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

As the request stands the variance does not comply with the general plan, and is contrary to the public interest. The variance would legitimize the creation of a lot that does not comply with zoning regulations and would not have been approved if reviewed through proper administrative subdivision review. The general plan, and resulting zoning, suggests that all new lots in the F-40 zone should be at least 40 acres. Allowing additional lots to be created that do not conform to this standard conflict with the public interest that was inherent in the creation of the 40 acre zone.

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

Approval of the variance would not provide for the spirit of the ordinance. Even though allowance of an additional lot for the second single family residence does not change the total number of dwelling units in the area, it can change the intensity of the use. Separate ownership of the residence renders it a "primary dwelling," or "main use" of the property, together with all of the additional activities that run with having a separate lot with a dwelling. Continuing to allow a nonconforming "accessory dwelling unit" on the same lot as a primary dwelling and under the same ownership generally provides for less intense uses of land. The spirit of the ordinance is for all new lots to be large lots that by their large nature offer low impacts to adjacent land uses. Additionally, legitimizing the new lot as a "legal" lot would circumvent the intent of the ordinance, and not observe substantial justice.

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<sup>25</sup> See LUC §108-12.

## Summary of Board of Adjustment Considerations

Generally, decisions on variances result in one of three ways: approval (with or without conditions<sup>26</sup>); denial; or table, pending further information or clarification.

If the BOA approves the requested variances they should consider that the request is based on the specific survey provided in the application, and condition approval on the following:

1. The properties should be platted in the manner depicted in the application survey, which combines tax ID #20-019-0004 and #20-019-0001.
2. The varied standards should be based on the proposal in the application survey, as documented in Table 1 of this staff report.
3. A more specific final variance for the setback from Wheeler Creek high water mark should be verified by staff during subdivision plat approval and considered as part of this decision.

Findings of fact for approval should be provided that explain the reason for the approval and the conditions of approval based on applicable ordinances.

If the BOA denies the request it should be accompanied by specific findings of fact based on applicable ordinances.

If the BOA tables the request the tabling should be based on the need for more specific information or clarification, or to provide the applicant with time to modify the request in a manner more suitable for an approval. A date to which the item will be tabled should be specified.

## Staff Recommendation

If the applicants are firm in the requested variances of the application, staff recommends denying the variances. This is based on the following findings of fact:

1. The variances requested are necessary only because of a self imposed hardship created by a previous property owner – the hardship of which could be eliminated if the parcel is returned to its approved configuration from the 2004 Lot Line Adjustment File #LLA-2004-01.
2. Literal enforcement of the ordinance is necessary to carry out the general purposes of the code. If the variances were approved as is currently requested it would not be keeping with the spirit of the subdivision code and the site development standards of the F-40 zone, and would not provide for substantial justice given the unlawful nature of the creation of the subject properties.
3. The variance affects the intent of the general plan by allowing an additional new dwelling-lot to exist in an area that would otherwise require 40 acres per newly created dwelling-lot.

However, there is a preferred alternative that, if the applicants are willing, would result in Staff recommending the application be tabled pending application amendment. If the applicants are willing to amend their application survey to provide for the same number of resulting building lots as there are *approved* building lots – each lot containing in substantial form the general area and width of other residential lots in the Wheeler Creek area – then variances for the results will likely be viewed favorably. The applicants own other adjacent parcels that may help with this effort.

## Exhibits

Exhibit A: Variance Application

Exhibit B: A depiction of the 2004 lot line adjustment that created the legal "Parcel B."

Exhibit C: 1970 survey of the Wilcox Camping and Boating Resort Subdivision.

Exhibit D: 1910 Survey of the Wilcox Camping and Boating Resort Subdivision.

Exhibit E: "Notice of Non-buildable Parcel."

Exhibit F: 2015 Survey plat by Mountain Engineering (application survey).

<sup>26</sup> UCA §17-27a-702 and LUC §102-3-4 allows the BOA to impose requirements that will (1) mitigate harmful effects of the variance; or (2) serve the purpose of the standard or requirement that is waived or modified.

# Weber County Board of Adjustment Application

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

Date Submitted / Completed <b>12/15/15</b>	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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## Property Owner Contact Information

Name of Property Owner(s) <b>Richard J. Vance, Jeffrey M. Callahan, Colby Keddington</b>		Mailing Address of Property Owner(s) <b>1031 N. Coyote Run, Saratoga Springs, UT 84045 198 E. Bay View Circle, Saratoga Springs, UT 84045 6708 Cyclamen Drive, West Jordan, UT 84081</b>	
Phone <b>801-971-0131</b> <b>801-230-1511 801-759-1151</b>	Fax <b>801-955-1393</b>		
Email Address <b>jcallahan83@hotmail.com rvance25@gmail.com rcolbyk@gmail.com</b>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

## Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		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

A variance request:

Lot area   
  Yard setback   
  Frontage width   
  Other: \_\_\_\_\_

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

## Property Information

Approximate Address <b>940 &amp; 942 Ogden Canyon Ogden, UT 84401</b>	Land Serial Number(s) <b>200190003 200190004 200190005</b>
Current Zoning	

Existing Measurements		Required Measurements (Office Use)	
Lot Area <b>See plats</b>	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)



**Applicant Narrative**

Please explain your request.

*See explanation letter*

**Variance Request**

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

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

*See Letter attached*

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

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

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

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

*See attached letters*

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

*See attached letters*

Variance Request (continued...)

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

See attached letters

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

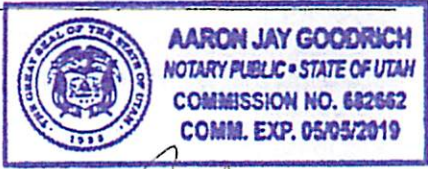
See attached letters

Property Owner Affidavit

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

[Signature]  
(Property Owner)

[Signature]  
(Property Owner)



Subscribed and sworn to me this 15<sup>th</sup> day of December, 20 15

[Signature]  
(Notary)

Authorized Representative Affidavit

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

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

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

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

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

**Narrative)**

Our request for variance(s) on our parcels, ID#200190003, ID#200190004, and ID#200190005 is for the sole purpose of recognizing the parcel as a valid approved lot so we can obtain a rebuild letter. Parcel ID#200190003 is owned by Jeffrey Callahan and Richard Vance. Parcels ID#200190004 and ID#200190005 are owned by Coldy Keddington. Currently they are considered to be the same property. We are not seeking a permit for improvements or additions. The intent of the rebuild letter is to allow a valid appraisal to be done and approved which is necessary to obtain a mortgage lien on the property. Our parcels are currently not recognized as their own parcels. They do not enjoy the same rights and privileges that the neighboring properties do. The use and purpose are the exact same as the other properties, but they are not legally recognized as so. Since construction in the 1920's, this community has passed through different ownership. Each new owner has done their own plats and surveys and have adjusted property lines and/or parcels to their liking. Reviewing the history of the area, there has never been any consistency in the surveys, plats, or parcel lines. We had a meeting with Charlie Ewert in the Weber County Planning Commission, and even he is confused with what is going on in this area. The Planning Commission has different information than the Recorder's Office, and the Assessor's Office has additional information that contradicts what the other two departments have. Granting of our variance will FINALLY bring clarity to the issues of this community. The intent of this variance is to recognize these homes and parcels as individual, independent parcels. We have responded to the five criteria necessary for a variance below. Please review them for more details.

**Question 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.**

**Response 1)**

Literal enforcement causes an unreasonable hardship on the property in such that we are unable to obtain a rebuild letter due to the property not being considered a valid parcel. The enforcement significantly reduces the value in the property as per the property can't obtain permits for improvements or repairs in the event of a loss or catastrophe. It will not be allowed to have mortgage liens taken against it which burdens the sale of the property and it would not be allowed to obtain permits to repair the structure if it were damaged. The adjoining properties in the community enjoy the right to being recognized as individual, approved parcels and therefore have the availability to obtain permits and/or rebuild letters. The neighboring properties are similar to this property and are used for the exact same purposes as our property. Granting the variance allows this property to enjoy all of the same rights the neighboring parcels do. Granting the variance will not affect the purpose of this zoning ordinance. The request is not to change anything on the property, but to merely legally recognize what currently exists on the property. In fact, it would be beneficial to the community as a whole.

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

Response 2)

As mentioned above, this property's circumstances are unique in that it is not recognized as it's on unique parcel. It is shared with two different homes that are owned independently. One is owned by Mr. Colby Keddington and the other by Mr. Jeffrey Callahan and Mr. Richard Vance. All of the property in this community had problems and concerns years ago with property lines, parcels, and zoning. For some reason, when the county approved a subdivision these two homes were not subdivided like the others. Therefore, it left the property in a unique situation unlike the neighboring parcels.

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

Response 3)

Granting of the variance is essential to the enjoyment of this property so it has all of the same rights that as the remaining property in the neighborhood. The other property owners have the right to permits, rebuild letters, and have the ability to take mortgage liens against their properties when this property currently does not possess the same rights.

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

Response 4)

The variance will not affect the general plan of the neighborhood and will not be contrary to the public interest. It will only allow the property the same rights that the other neighborhood properties currently enjoy. In fact, it might possibly benefit the public interest in the instance that the property value increases and the can have mortgage liens taken against it. This allows for more enjoyment for the homeowner which in turn increases pride of ownership which follows up with better care of the property. We have worked very hard on turning this home and property (which was an unsightly thing to see a few years ago) into a beautiful piece of land which benefits the community as a whole.

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

Response 5)

The spirit of the land use ordinance will be observed and substantial justice will be done. The land will be granted all of the same rights as the neighboring property and the property is a beautiful addition to an already amazing community. It is a win/win for everyone.

**WEBER COUNTY TAXPAYER REPORT**

**LSN: 20-019-0003**

#	ADDRESS:	UNIT #	CITY:	LOT #	SITE NAME:	BUSINESS NAME:	IMP #
1	940 OGDEN CYN		OGDEN		Wilcox Camp		

STATUS: A ACCT TYPE: IMPROVED TTL AC: 0.22 REG: 1 PPT: 117 NPPT: 117 - RECREATIONAL IMP

**IMPROVEMENTS**

IMPROVEMENT	IMP COST TYP: Residential	QUALITY: Average
<b>IMP#: 1</b>	IMP DESC: CB	CONDITION: Average
	IMP SF: 1914	% COMPLETE: 100%

**OCCUPANCY**

OCC CODE: 111 OCC DESC: Sngl Fam Res ABST CODE: RS PCT CMPLT: 100%

**BUILT AS**

CLASS:	STRY HGT: 8	BLT AS CODE: 91	SPRINKLER SF:	BLT AS#: 1
EXTERIOR: Frame Siding	BLTAS SF: 1914	BLT AS DESC: CB	ROOF COVER: Formed Seam Metal	
FOUNDATION: Conventional	YEAR BLT: 1935	HVAC TYP: Other	ROOF TYPE: Gable	
STORIES: 1.0	EFF YR BLT: 1984	HVAC %: 100%	FLOOR COVER: Allowance	

**DETAILS**

DETAIL TYPE:	DESCRIPTION:	UNITS:	QUALITY:	DESC DETACHED:
Appliance	Allowance	1	Semi-Modern	
Appliance	Fireplace Single	1	Metal Fireplace	
Fixture	Bath Full	1		
Garage	Attached	294		
Porch	Open Slab	24		
Porch	Wood Deck	240		
Rough In	Rough In	1		

**ADD ONS**

TYPE	CODE:	DESCRIPTION:	UNITS:	YEAR BUILT:	QUALITY:	%CMPLT:
Add On	1123	Storage - Shed	120	199	Average	100
Add On	1137	Masonry Trim	1			

**ADDITIONAL IMPROVEMENTS**

#: DESC: QUALITY: CONDITION: % C: ABST: CODE: BA DESC: CLS: EXTERIOR: HT: WT: LT: YB: EYB:

WEBER COUNTY TAXPAYER REPORT

**LSN: 20-019-0004**

ADDRESS:	UNIT #	CITY:	LOT #	SITE NAME:	BUSINESS NAME:	IMP #
942 WOGDEN CYN		OGDEN		Wilcox Camp		

TATUS: A ACCT TYPE: LAND TTL AC: 0.02 REG: 1 PPT: 999 NPPT: 999 - UNDEV

**I M P R O V E M E N T S**

**A D D I T I O N A L I M P R O V E M E N T S**

#: DESC:	QUALITY:	CONDITION:	% C:	ABST:	CODE:	BA DESC:	CLS:	EXTERIOR:	HT:	WT:	LT:	YB:	EYB:
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**WEBER COUNTY TAXPAYER REPORT**

**LSN: 20-019-0005**

# ADDRESS: 1 946 OGDEN CYN UNIT # OGDEN CITY: OGDEN LOT # SITE NAME: Wilcox Camp BUSINESS NAME: IMP #

STATUS: A ACCT TYPE: IMPROVED TTL AC: 0.18 REG: 1 PPT: 117 NPPT: 997 - MULTIPLE RESIDENTIAL

**IMPROVEMENTS**

IMPROVEMENT IMP COST TYP: Residential QUALITY: Average  
 IMP#: 1 IMP DESC: CB CONDITION: Below Average  
 IMP SF: 484 % COMPLETE: 100%

**OCCUPANCY**

OCC CODE: 111 OCC DESC: Sngl Fam Res ABST CODE: RS PCT CMPLT: 100%

**BUILT AS**

CLASS: STRY HGT: 8 BLT AS CODE: 91 SPRINKLER SF: BLT AS#: 1  
 EXTERIOR: Frame Siding BLTAS SF: 484 BLT AS DESC: CB ROOF COVER: Formed Seam Metal  
 FOUNDATION: Conventional YEAR BLT: 1924 HVAC TYP: Other ROOF TYPE: Gable  
 STORIES: 1.0 EFF YR BLT: 1983 HVAC %: 100% FLOOR COVER: Allowance

**DETAILS**

DETAIL TYPE:	DESCRIPTION:	UNITS:	QUALITY:	DESC DETACHED:
Appliance	Allowance	1	Semi-Modern	
Appliance	Fireplace Single	1	Metal Fireplace	
Fixture	Bath Full	1		
Porch	Encl Solid Wall	48	Semi-Modern	
Rough In	Rough In	1		

**ADD ONS**

TYPE	CODE:	DESCRIPTION:	UNITS:	YEAR BUILT:	QUALITY:	%CMPLT:
IMPROVEMENT		IMP COST TYP: Residential			QUALITY: Fair	
IMP#: <u>2</u>		IMP DESC: CB			CONDITION: Below Average	
		IMP SF: 490			% COMPLETE: 100%	

**OCCUPANCY**

OCC CODE: 111 OCC DESC: Sngl Fam Res ABST CODE: RS PCT CMPLT: 100%

**BUILT AS**

CLASS: STRY HGT: 8 BLT AS CODE: 91 SPRINKLER SF: 0 BLT AS#: 1  
 EXTERIOR: Frame Siding BLTAS SF: 490 BLT AS DESC: CB ROOF COVER: Composition Shingle  
 FOUNDATION: Conventional YEAR BLT: 1921 HVAC TYP: Other ROOF TYPE: Gable  
 STORIES: 1.0 EFF YR BLT: 1980 HVAC %: 100% FLOOR COVER: Allowance

**DETAILS**

DETAIL TYPE:	DESCRIPTION:	UNITS:	QUALITY:	DESC DETACHED:
Appliance	Allowance	1	Basic-Old/SY	
Appliance	Fireplace Single	1	METAL FP	
Fixture	Bath Full	1		
Porch	Open Slab	90		
Rough In	Rough In	1		

**ADD ONS**

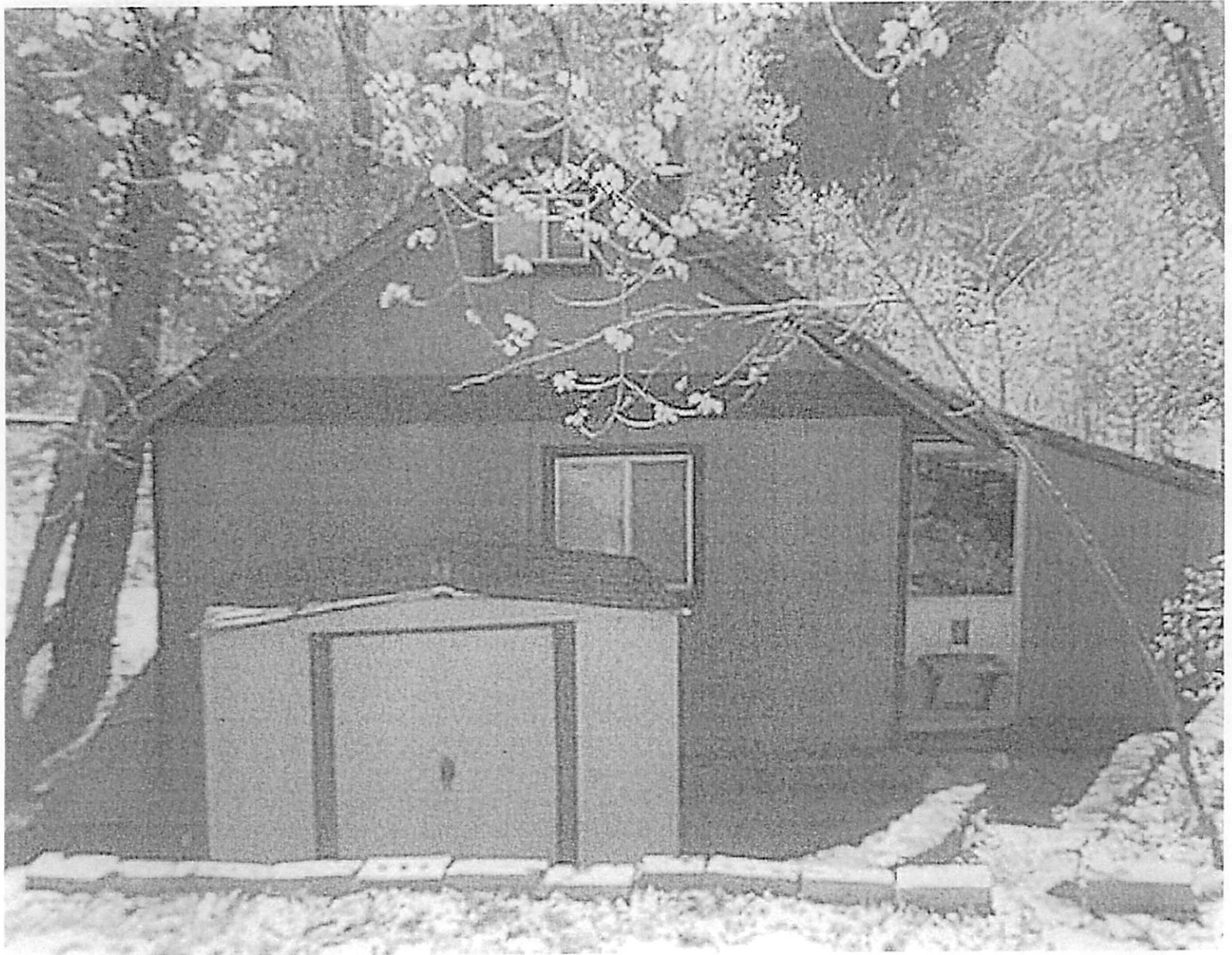
TYPE	CODE:	DESCRIPTION:	UNITS:	YEAR BUILT:	QUALITY:	%CMPLT:
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**ADDITIONAL IMPROVEMENTS**

#: DESC: QUALITY: CONDITION: % C: ABST: CODE: BA DESC: CLS: EXTERIOR: HT: WT: LT: YB: EYB:

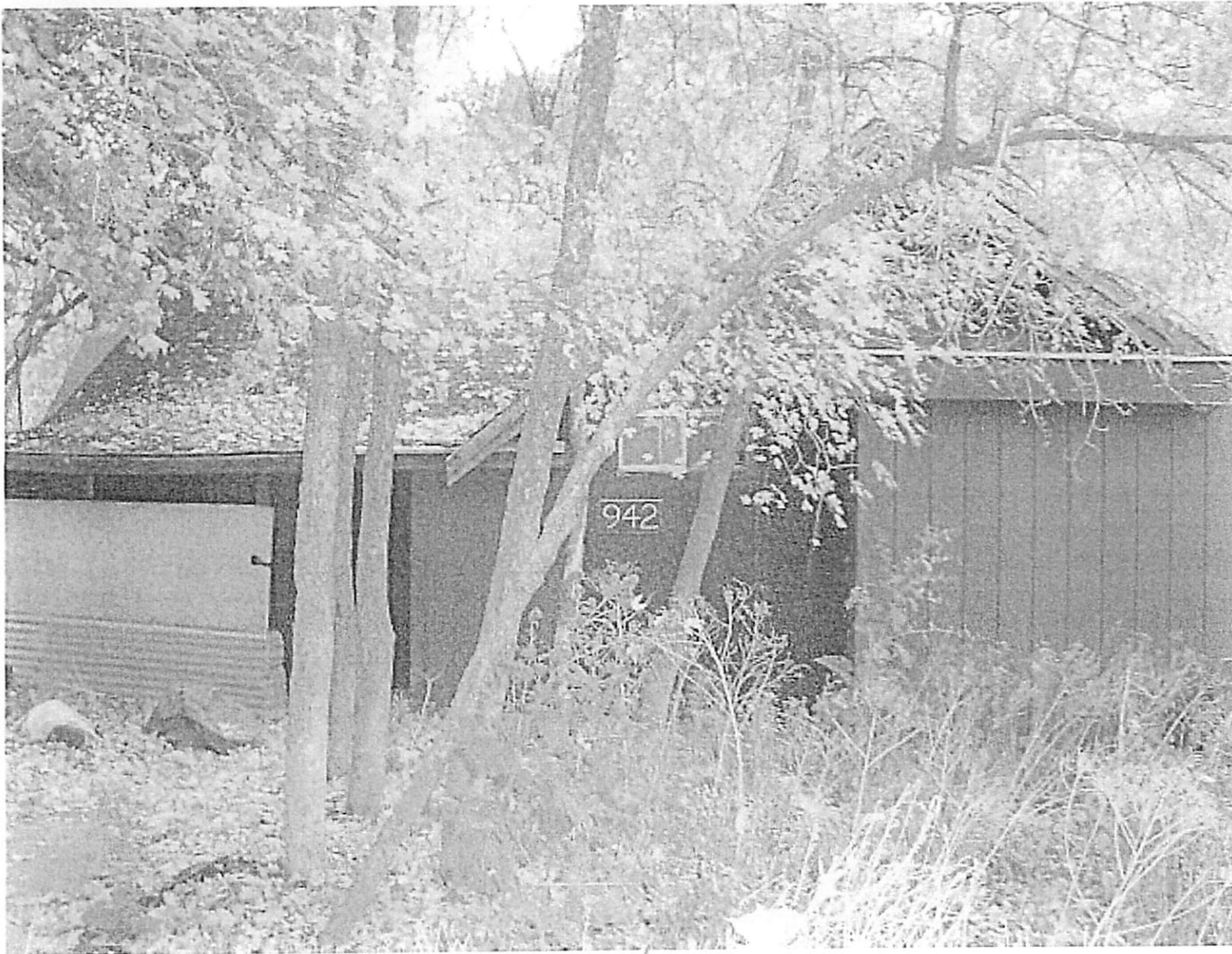


2002



2004

2009

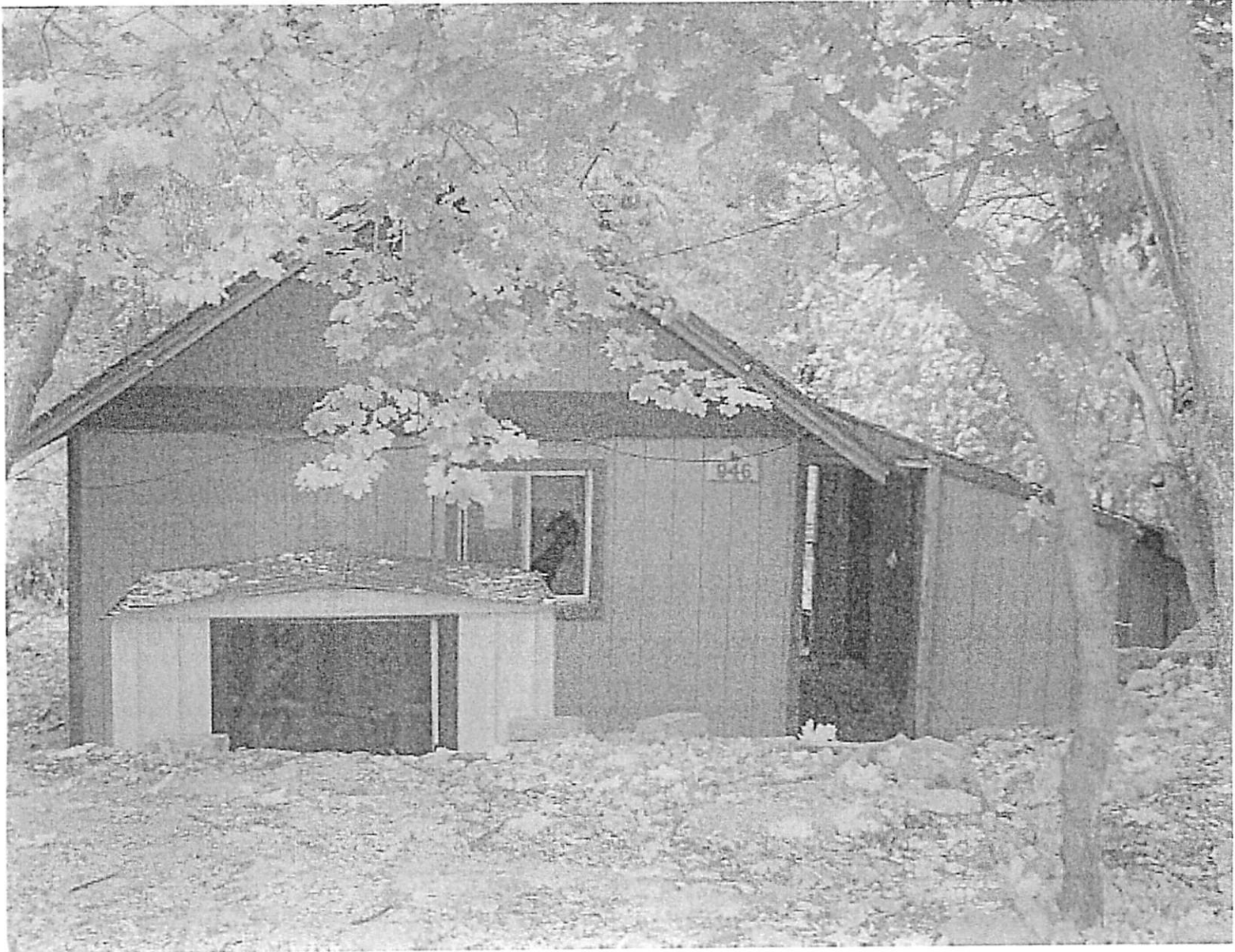


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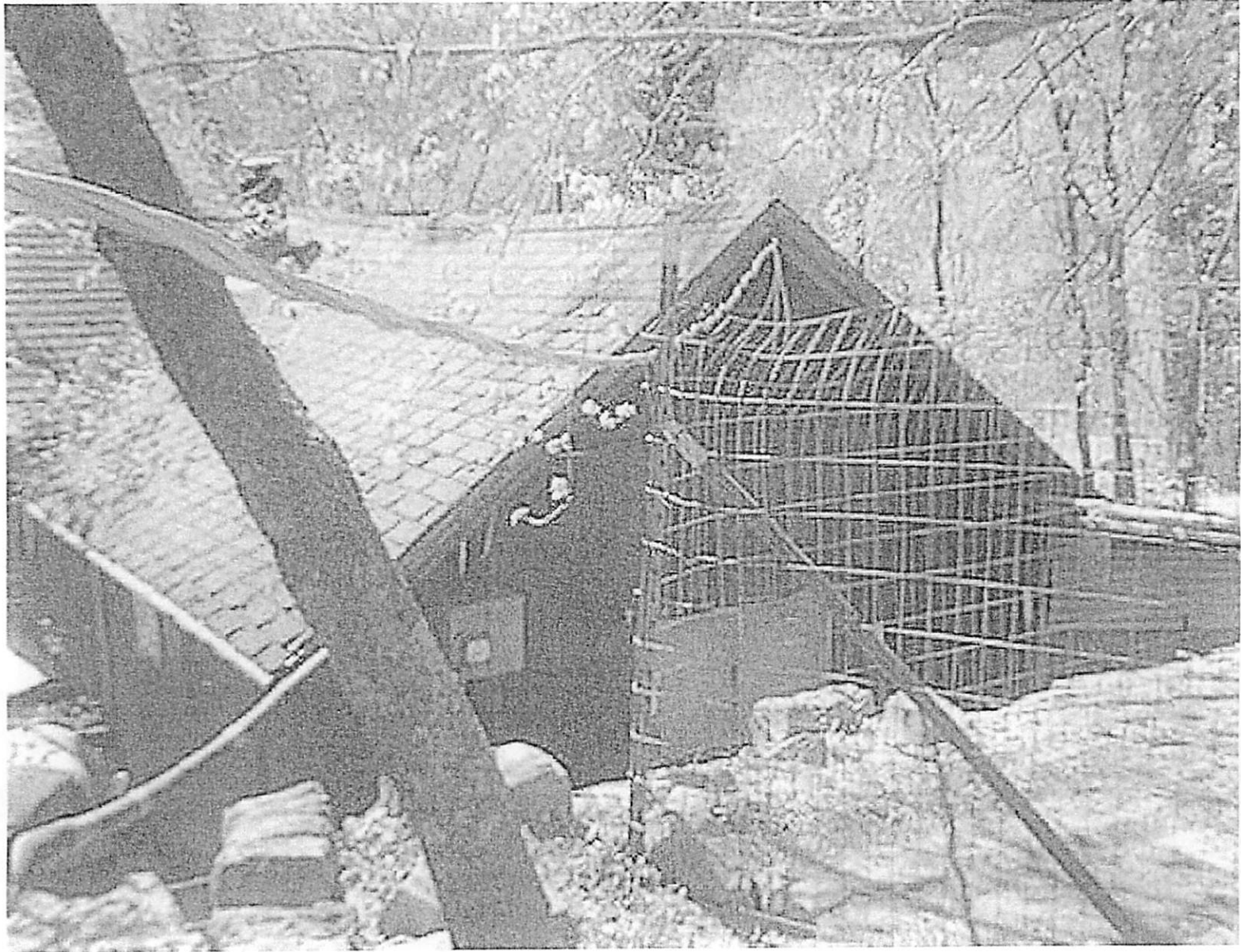
2013

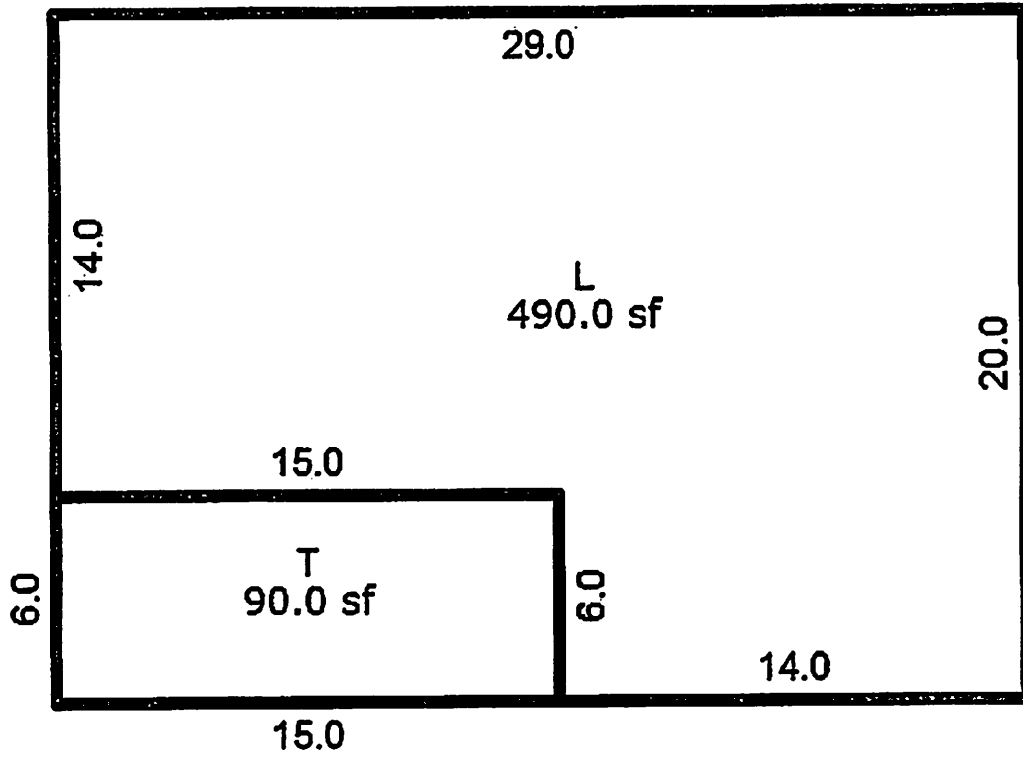


0004









Sketch by Apex Medina™

20-019-0005

2290E 1501877/11      BOOK 1373 PAGE 773  
 Recorded at Request of SXC      826719      AUTH: WEBER  
 at 5-117      M. Fee Paid \$                by Edoat J. White  
 Dep. Book            Page 135      Mail tax notice to            Address                 Dec 10 2 29 PM '80  
20-019-0001, 0014, 0003  
20-019-0004  
0001

**QUIT CLAIM DEED**

grantee  
 for the sum of  
 (\$10,000) DOLLARS  
 County,  
 State of Utah, hereby  
 granted  
 PLATED  
 ENTERED  
 MICROFILMED

NOLAN M. and ALANNA B. LOFTUS  
 of OGDEN, UTAH, County of WEBER, State of Utah, hereby  
 QUIT CLAIM to LOFTUS INVESTMENTS, LTD., A Utah Limited Partnership

of Ogden County of Weber, Utah  
 Ten and no/100 and other good and valuable consideration  
 the following described tract of land in  
 State of Utah, to wit:

All of that part of Lots 1, 2, 3, 4, 5, and 6 lying West of the center of the old channel of Wheeler Creek, as the same was located prior to the channel change in 1956, in Wilcox Camping and Boating Resort. Also Lots 27, 28, 29, and 30, lying East of the 66 foot road, in Wilcox Camping and Boating Resort, located in the Southwest Quarter of the Southeast Quarter of Section 16, Township 6 North, Range 1 East, Salt Lake Meridian, excepting the right-of-way conveyed to Ogden City by Deed recorded in Book 72 at Page 59, Weber County Records.

A part of the South half of the Southeast Quarter of Section 16, Township 6 North, Range 1 East, Salt Lake Meridian, U.S. Survey: Beginning at a point 1025.5 feet North of the Southwest corner of said Southeast Quarter; thence North 254.5 feet to the Northwest corner of said South half of Southeast Quarter; thence East 570 feet; thence South 37° 15' East 52 feet; thence North 65° 44' West 350 feet to the West line of County Road; thence Southeasterly along the West line of the County Road to a point East of beginning; thence West 455.4 feet, more or less, to the place of beginning.

(Legal Description Continued on Reverse Side of this Deed.)

WITNESS the hand of said grantor, this 10 day of December, 1980

Signed in the presence of  
Nolan M. Loftus  
Alanna B. Loftus

STATE OF UTAH,  
 County of Salt Lake }  
 On this 10 day of December, 1980  
 and Alanna B. Loftus personally appeared before me Nolan M. Loftus

The signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

Janet H. Loftus  
 Notary Public, residing at  
Salt Lake City, Utah  
 My commission expires July 13, 1982

THIS DEED PRINTED ESPECIALLY FOR PHOTO-RECORDING. USE BLACK INK AND TYPE.



BOOK 1573 PAGE 774

(Legal Description Continued)

A part of Lots 3, 4, 5, and 6 of the Wilcox Camping and Boating Resort, a subdivision of part of the Southwest Quarter of the Southeast Quarter of Section 16, Township 6 North, Range 1 East, Salt Lake Meridian, U.S. Survey: Beginning at the Northeast corner of said Lot 3 and running thence South  $37^{\circ} 15'$  East 175.30 feet; thence South  $57^{\circ} 29'$  West 53.68 feet to the South face of Stone Wall; thence South  $75^{\circ}$  West 5.5 feet along the South face of said Stone Wall; thence North  $17^{\circ} 30'$  West 10 feet, more or less, along the West face of a Stone Wall; thence North  $84^{\circ} 35'$  West 37 feet along the South face of a Stone Wall; thence North  $14^{\circ} 50'$  West 20 feet along the West face of a Stone Wall; thence North  $38^{\circ} 10'$  West 30.5 feet to an iron pipe stake; thence North  $59^{\circ} 30'$  West 27 feet, more or less, to the center of Wheeler Creek; thence Northerly along the center of Wheeler Creek to the North line of said Lot 3; thence Northeasterly along the North line of said Lot 3, to the place of beginning.

Subject to a roadway along the East side thereof.

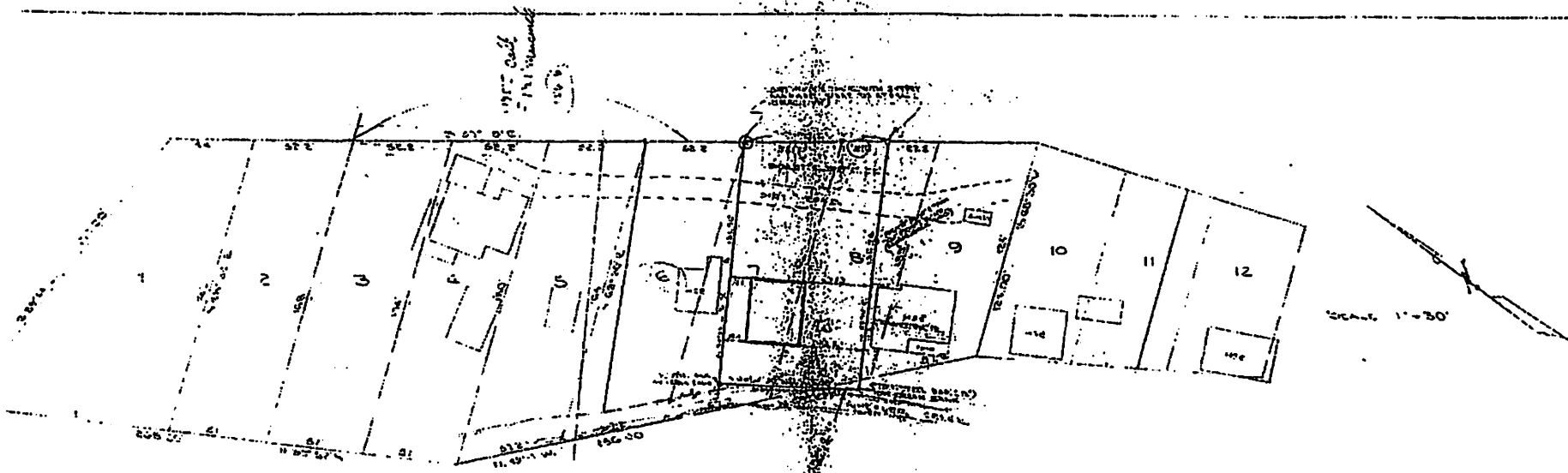
A part of Lots 4, 5, and 6 of the Wilcox Camping and Boating Resort, a subdivision of a part of the Southwest Quarter of the Southeast Quarter of Section 16, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U. S. Survey: Beginning 20 feet Southeasterly from the intersection of the North line of said Lot 6 and the East bank of Wheeler Creek and running thence 45 feet, more or less, in a Northeasterly direction to the South face of a Stone Wall; thence North  $84^{\circ} 35'$  West 25 feet, more or less, along the south face of a Stone Wall; thence North  $14^{\circ} 50'$  West 20 feet along the West face of a Stone wall; thence North  $38^{\circ} 10'$  West 30.5 feet to an iron pipe stake; thence North  $59^{\circ} 30'$  West 27 feet, more or less, to the East bank of Wheeler Creek; thence Southeasterly along said East bank to the place of beginning.

(The two legal descriptions above, are subject to a possible encroachment with a property adjacent to said two legal descriptions adjoining on the South.)

Subject to easements, rights of way and burdens against said land as appears by instruments of record, or apparent by inspection of the said premises.

Together with any and all water and water rights now or heretofore used in connection with said premises.

\*\*\*



**DESCRIPTION**

Part of Lots 7 and 8 in Wilson County and Building hereby situated in the southwest quarter of Section 12, T4N, R12E, S1E, Q. 1. W. 1st. Beginning at the Northwest corner of said lot 7, thence South westerly to a point 25 feet Southwesterly along Hunter Creek from the North line of said lot 7, thence Southwesterly along said Hunter Creek 82.75 feet more or less, thence Southwesterly on a point 25 feet Southwesterly from the Southwest corner of said lot 8, thence Southwesterly to beginning. Also all that portion of said lot 7 lying South and West of said Hunter Creek including trees and all buildings whatsoever now or hereafter.

The undersigned, a Registered Land Surveyor, as required by the Acts of Dish, does hereby certify as follows:

1. that the above plat has been correctly drawn to the designated scale and shows the dimensions of the property surveyed,
2. that the survey on the site was based on the following data:
  - a. records of the West County Recorder Office
  - b. records of the West County Engineers Office and
  - c. property line stakes found in place
  - d. physical measurement of distances.

In the absence of all listed sources or Quarter Section corners in place and used as data, and absence of measurement on the topographic survey, the undersigned will certify as correct that the survey based on data under above.

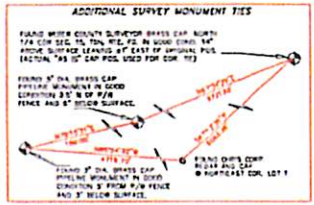
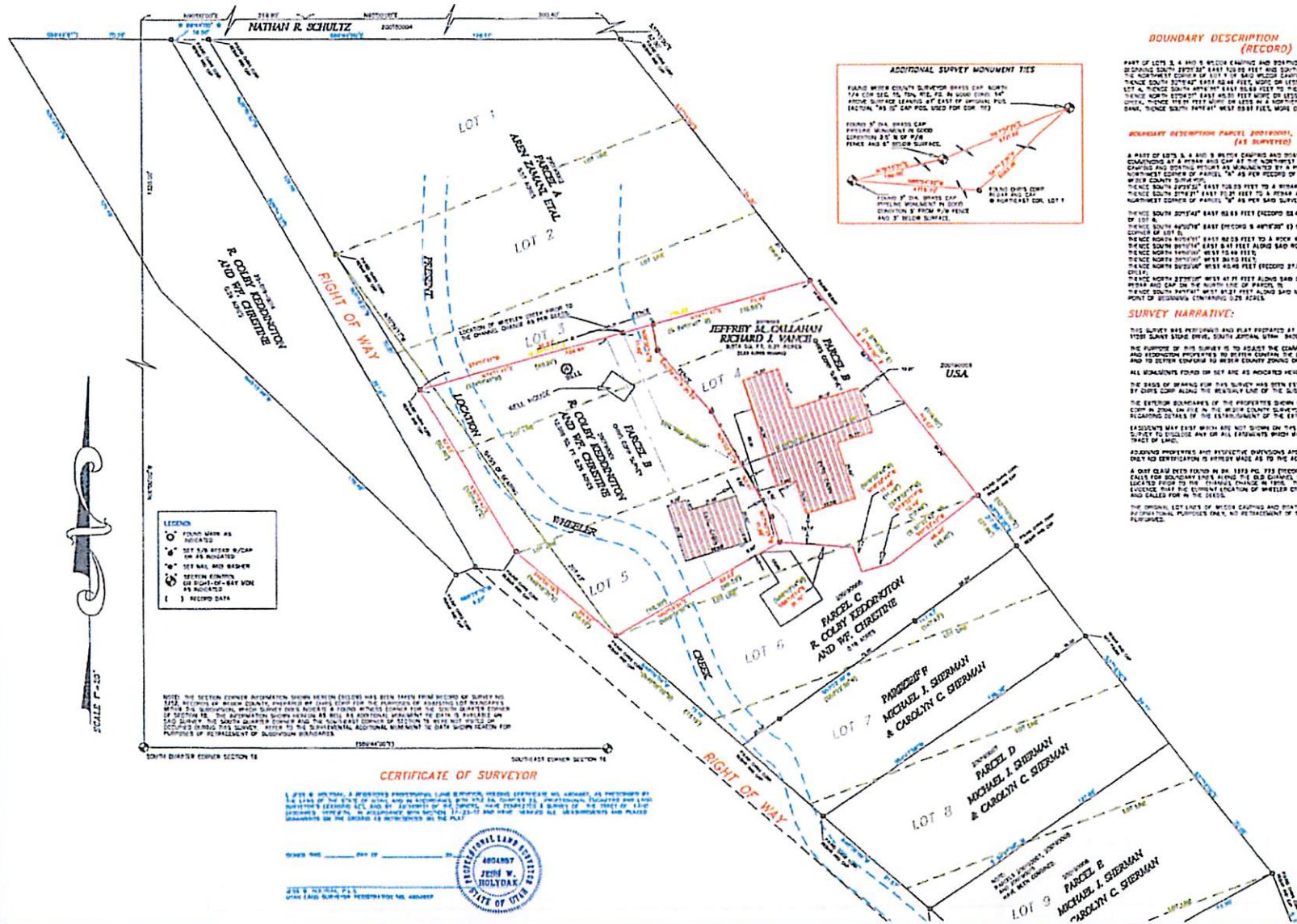
Dated: October 3, 1970 at \_\_\_\_\_ Mo. \_\_\_\_\_ Day \_\_\_\_\_ 1970



LARRY G. BUTTS  
 Great Basin Surveyors & Engineers, Inc.

MC-141  
 GREAT BASIN SURVEYORS & ENGINEERS  
 1000 10th Street, S.W.  
 Property Survey  
 First Security  
 State Surveyors & Engineers  
 License No. 1111  
 Oct. 2, 1970

**RECORD OF SURVEY**  
 PART OF LOTS 3,4,5 AND 6, WILCOX CAMPING & BOATING RESORT  
 A PART OF THE SOUTHEAST QUARTER OF SECTION 16, T6N, R1E



**BOUNDARY DESCRIPTION 200190001 (RECORD)**

PART OF LOTS 3, 4 AND 6, WILCOX CAMPING AND BOATING RESORT, WISER COUNTY, OREGON, BEGINNING SOUTH 89°56'00\"

**BOUNDARY DESCRIPTION PARCEL 200190001, 200190008 AND CREEK BED (AS SURVEYED)**

A PART OF LOTS 3, 4 AND 6, WILCOX CAMPING AND BOATING RESORT, WISER COUNTY, OREGON, BEGINNING AT A WISER AND CAP AT THE NORTHWEST CORNER OF LOT 1 OF SAID WILCOX CAMPING AND BOATING RESORT AS MANUFACTURED BY A WISER AND CAP AND BEING ALSO THE NORTHWEST CORNER OF PARCEL 'A' AS PER RECORD OF SURVEY NO. 200190001 OF THE WISER COUNTY SURVEYS.

**SURVEY NARRATIVE:**

THIS SURVEY WAS PERFORMED AND PLAT PREPARED AT THE REQUEST OF JEFF CALLAHAN, 10205 S.W. 25TH DRIVE, SOUTHWEST, WASH. WACON 98150.

THE PURPOSE OF THIS SURVEY IS TO ADJUST THE COMMON BOUNDARY BETWEEN THE CALLAHAN AND HEDGECOCK PROPERTIES IN ORDER TO CORRECT THE EXISTING HOUSE AND IMPROVEMENTS AND TO DETERMINE EQUALLY TO WISER COUNTY ZONING ORDINANCE.

ALL MONUMENTS FOUND ON SET ARE AS NOTED HEREON.

THE BASIS OF MEASUREMENT FOR THIS SURVEY HAS BEEN ESTABLISHED AS PER MONUMENTS PLACED BY JOHN COOP ALONG THE SURVEY LINE OF THE SAID SURVEY.

THE EXISTING BOUNDARIES OF THE PROPERTIES SHOWN HEREON WERE DERIVED BY JOHN COOP IN 2004 ON FILE IN THE WISER COUNTY SURVEYORS OFFICE. REFER TO SAID SURVEY PLATTING SERIES OF THE EXISTING BOUNDARIES.

EXISTS MAY EXIST WHICH ARE NOT SHOWN ON THIS PLAT. IT IS NOT THE INTENT OF THIS SURVEY TO DISCLOSE ANY OR ALL EASEMENTS WHICH MAY ENCOMBER THE HEREON SHOWN TRACT OF LAND.

ADJOINING PROPERTIES AND RESPECTIVE DIMENSIONS ARE SHOWN FOR INFORMATION PURPOSES ONLY NO IDENTIFICATION IS HEREBY MADE AS TO THE ACCURACY OF SAID INFORMATION.

A DAY CLAIM FEES FORCED IN BY 1919 P.C. 729 (EXCERPTS OF THE WISER COUNTY RECORDER) CALLS FOR BOUNDARY MARKERS ALONG THE WHEELER CREEK. AS THE SAME HAS LOCATED FROM TO THE CHANNEL CHANGE IN TIME. THIS DAY CLAIM DATES PROVES EVIDENCE THAT THE EXISTING LOCATION OF WHEELER CREEK DOES NOT LOCATE AN ANCHOR AND CALLED FOR IN THE DEEDS.

THE ORIGINAL LOT LINES OF WILCOX CAMPING AND BOATING RESORT HAVE BEEN SHOWN FOR INFORMATIONAL PURPOSES ONLY. NO RETRACTION OF SAID ORIGINAL LOT LINES HAS BEEN PLANNED.

- LEGEND**
- FOUND MARK AS INDICATED
  - SET 1/4\"
  - SET 1/4\"
  - SECTION CORNER OR QUARTER-SECTION CORNER AS INDICATED
  - RECORD DATA

**CERTIFICATE OF SURVEYOR**

I, JEFF M. CALLAHAN, A REGISTERED PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFICATE AND WARRANT, AS FURNISHED BY ME TO YOU, THAT I AM THE SURVEYOR OF THE ABOVE DESCRIBED LAND AND THAT THE SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A MEMBER IN GOOD STANDING OF THE NATIONAL SOCIETY OF PROFESSIONAL LAND SURVEYORS.

DATE: \_\_\_\_\_ DAY OF \_\_\_\_\_

JEFF M. CALLAHAN, P.L.S.  
 10205 S.W. 25TH DRIVE, SOUTHWEST, WASH. WACON 98150



**MOUNTAIN ENGINEERING**

P.O. BOX 309  
 WASHBURN, OREGON 97148  
 TEL: (503) 838-2525 FAX: 838-3515

**RECORD OF SURVEY**

PART OF LOTS 3, 4, 5 AND 6, WILCOX CAMPING AND BOATING RESORT,  
 A PART OF THE SOUTHEAST QUARTER OF SECTION 16, T6N, R1E,  
 WISER COUNTY, OREGON

DATE: 12-22-2017  
 SHEET 1 OF 1

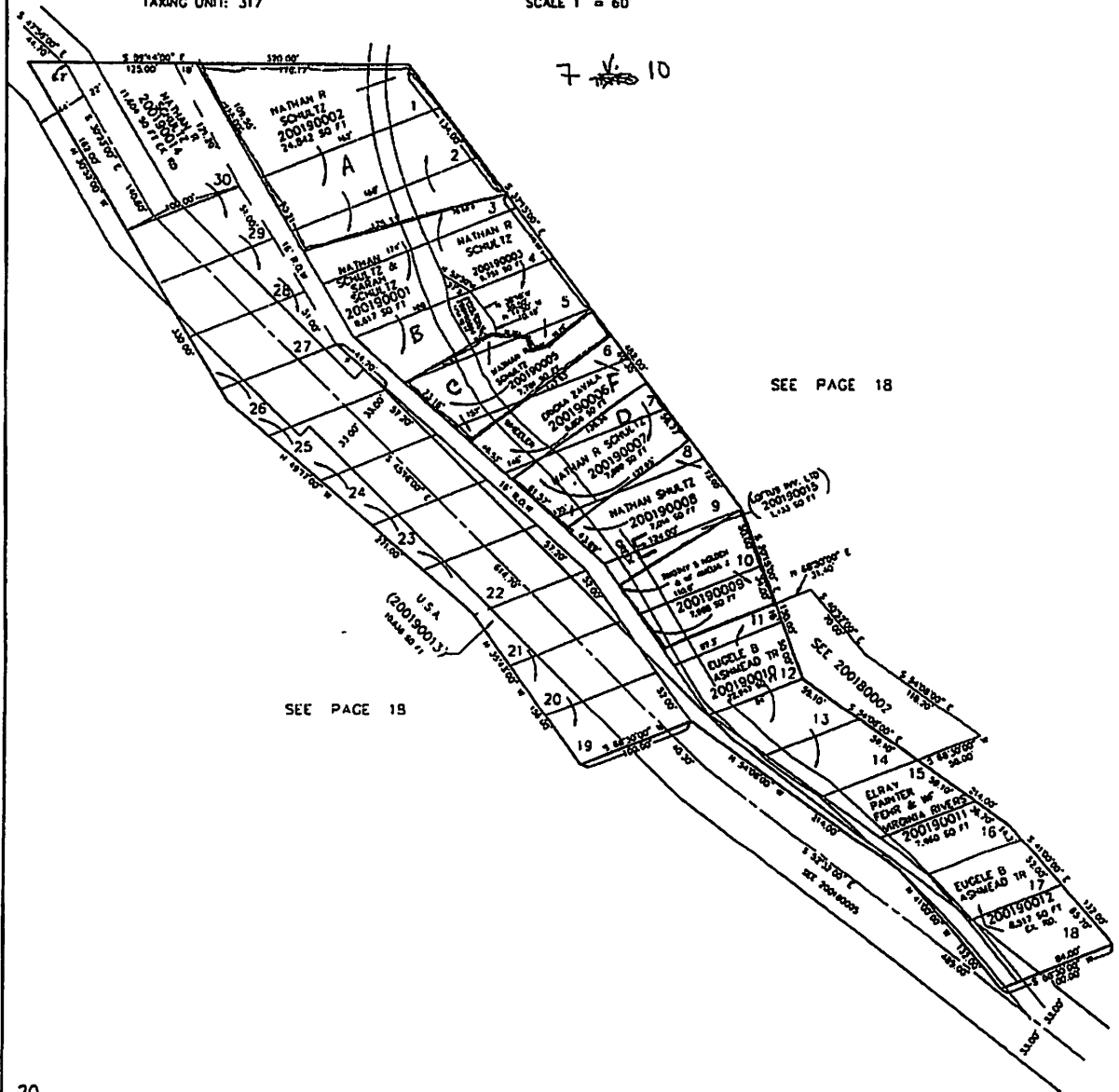
PART OF S.E. 1/4. SEC. 16, T.6N., R.1E., S.L.B. & M.  
WILCOX CAMPING & BOATING RESORT

19

TAXING UNIT: 317

IN WEBER COUNTY  
SCALE 1" = 60'

7 ~~10~~



SEE PAGE 18

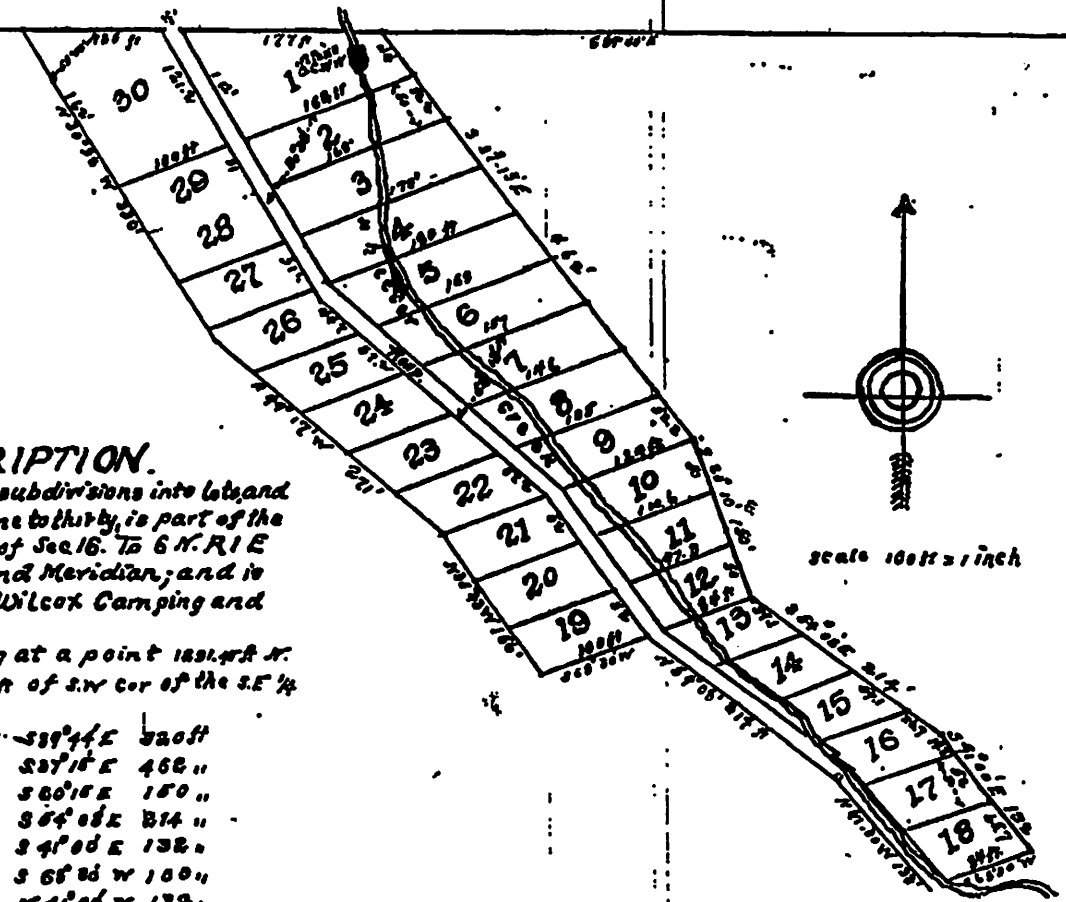
SEE PAGE 18

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DW 2-97

# MILCOX CAMPING AND BOATING RESORT.

57



REMARKS.	
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### DESCRIPTION.

This Plat and its subdivisions into lots, and numbered from one to thirty, is part of the S.W. 1/4 of the S.E. 1/4 of Sec. 16. T. 6 N. R. 1 E Salt Lake Base and Meridian; and is to be known as "Milcox Camping and Boating Resort."

Beginning at a point 1831.47 ft N. and 589.44 E 275 ft of S.W. cor of the S.E. 1/4 of said Sec. 16

- Running thence;
- Do. Do. S89°44' E 320 ft
  - " " S27°15' E 462 "
  - " " S20°15' E 150 "
  - " " S64°03' E 314 "
  - " " S 41°00' E 132 "
  - " " S 68°30' W 100 "
  - " " N 41°00' W 132 "
  - " " N 57°30' W 316 "
  - " " S 68°30' W 100 "
  - " " N 30°48' W 156 "
  - " " N 49°11' W 271 "
  - " " N 30°00' W 230 "

To beginning, being the exterior boundary of said tract of land, and containing 4.57 acres, including road 15 ft wide as shown on this plat and on which the present owner M.E. Milcox reserves a right of way.

I W.C. Sumner, a Civil Engineer do hereby certify that the plat hereto attached of "Milcox Camping and Boating Resort, in Weber County, State of Utah, is correct and accurately constructed from the field notes of survey made by me in November 1910.

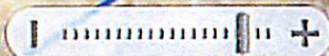
*W.C. Sumner*

Weber County } ss.  
State of Utah }

Subscribed and sworn to before me this 15<sup>th</sup> day of November 1910

*John E. Bagley*  
Notary Public

Approved and accepted for record by the Commissioners of Weber County Utah, this 22<sup>nd</sup> day of December 1910.



200190002

00190002

200190003

200190014

200190001

200190004

200190005

200190005

200190013

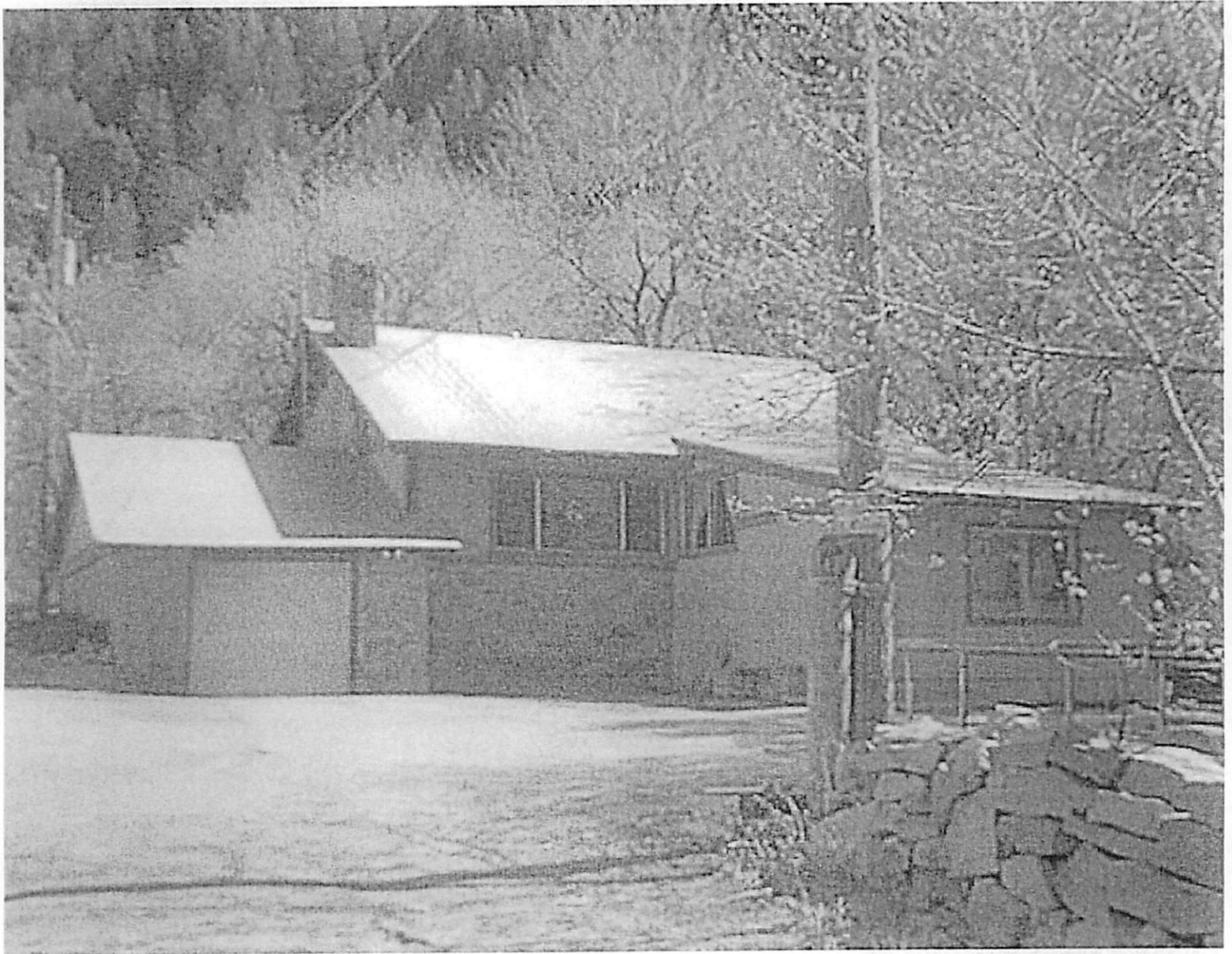
190014

200180003

OGDEN CYN

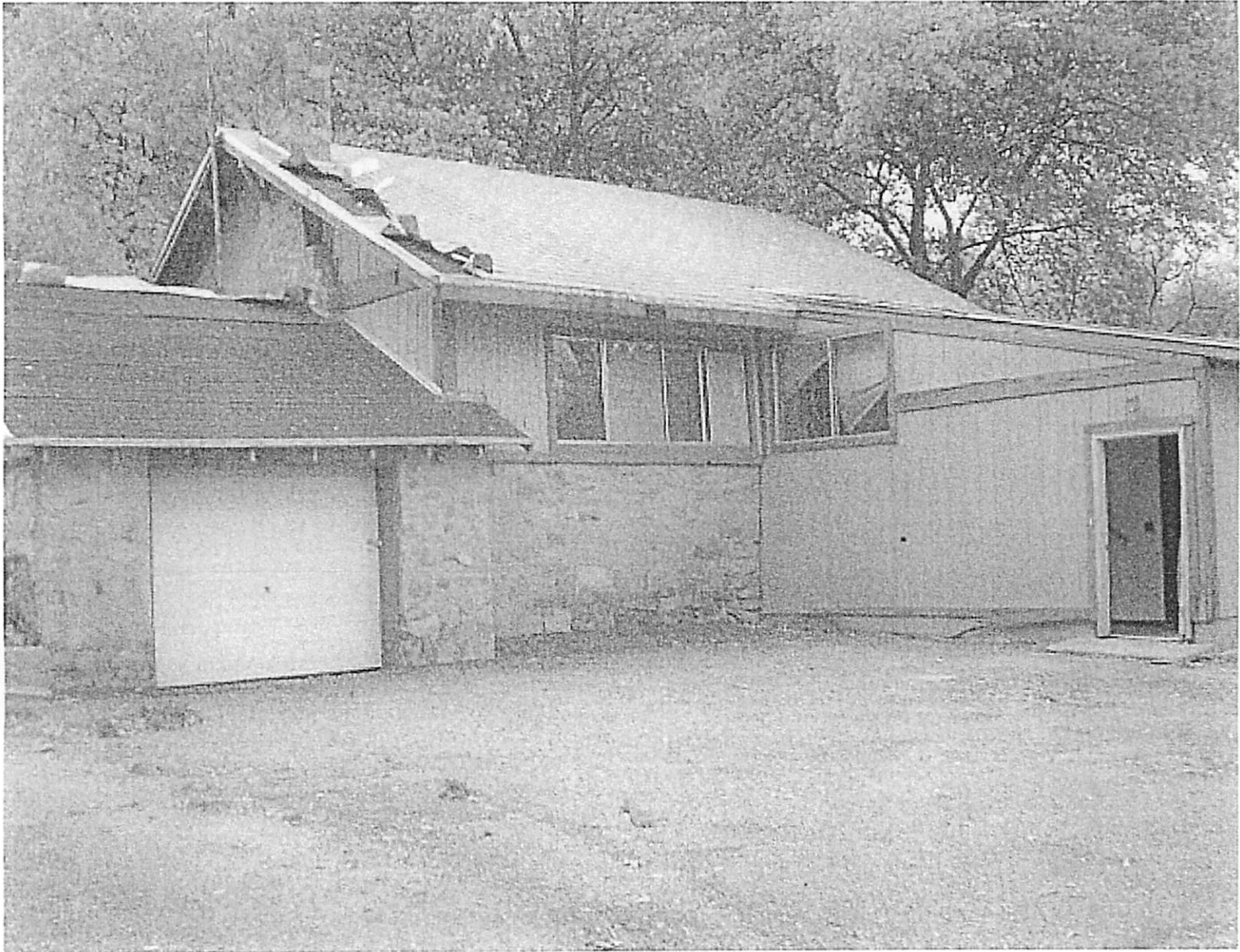
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2002



0003

2009



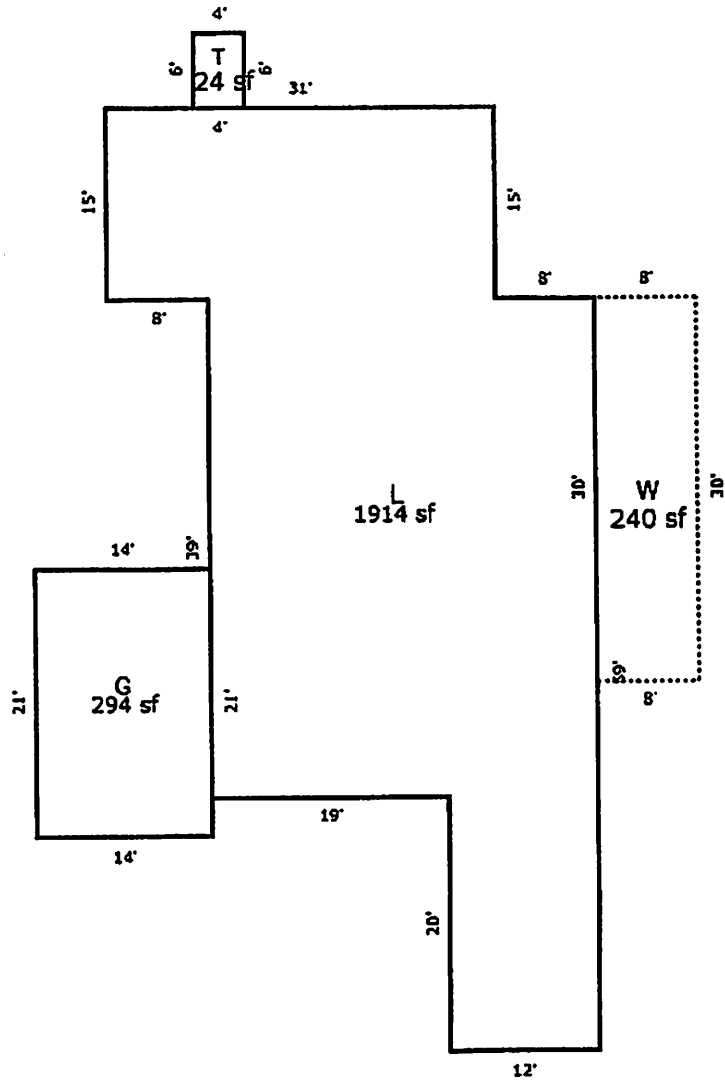
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2013



0003



Sketch by Apex Medina™

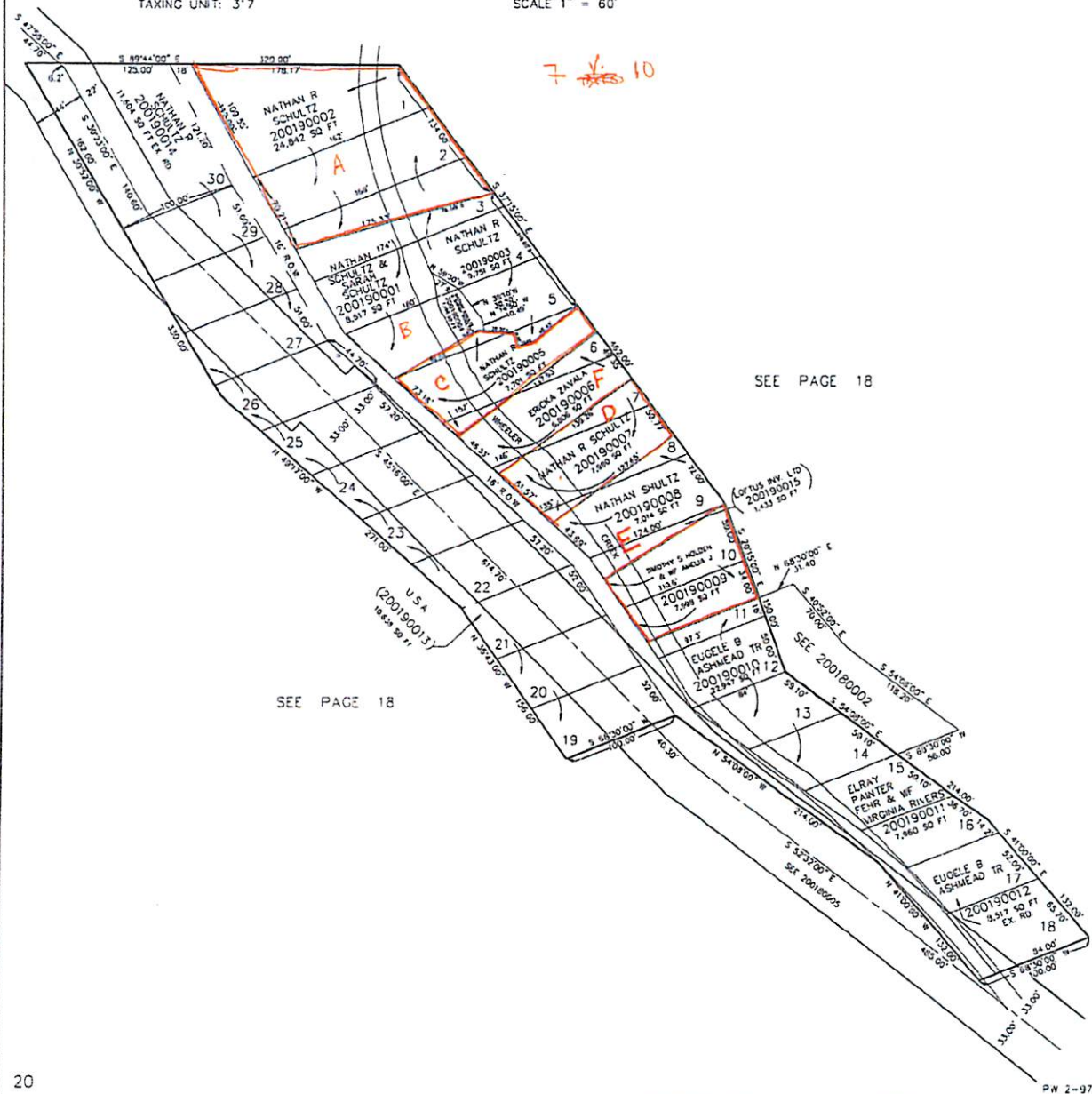
20-019-0003

PART OF S.E. 1/4, SEC 16, T.6N., R.1E., S.L.B. & M.  
**WILCOX CAMPING & BOATING RESORT**

TAXING UNIT: 3:7

IN WEBER COUNTY  
 SCALE 1" = 60'

7 ~~10~~ 10



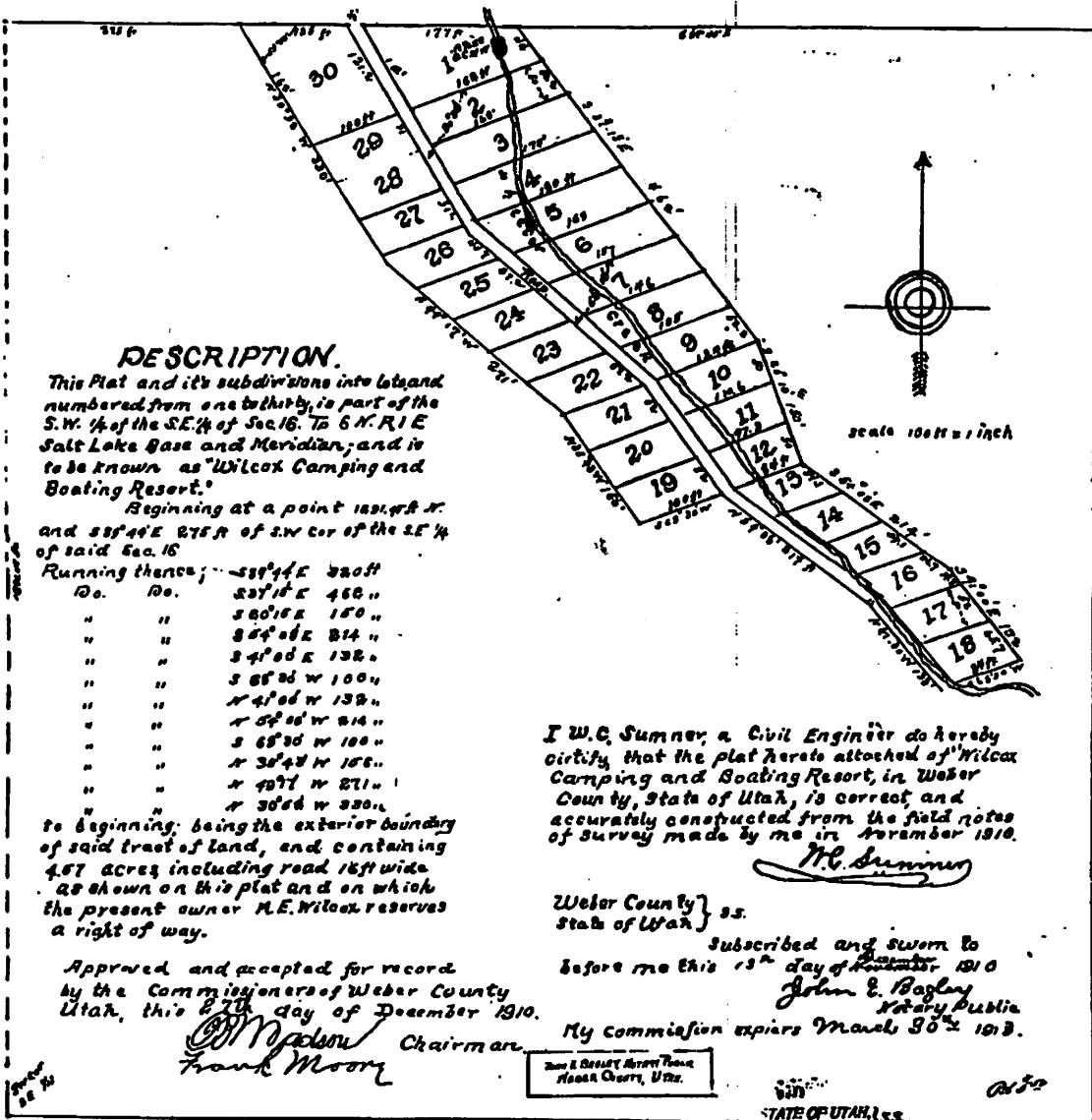
SEE PAGE 18

SEE PAGE 18

# WILCOX CAMPING AND BOATING RESORT.

64-9  
4-57

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### DESCRIPTION.

This Plat and its subdivisions into lots and numbered from one to thirty, is part of the S.W. 1/4 of the SE 1/4 of Sec. 16, T. 6 N. R. 1 E Salt Lake Base and Meridian; and is to be known as "Wilcox Camping and Boating Resort."

Beginning at a point 183.4 ft. N. and 587.4 ft. E. of S.W. cor. of the SE 1/4 of said Sec. 16

Running thence; - 587.4 ft. S 0 ft.  
 Do. Do. 237.1 ft. E 460. "  
 " " 560.1 ft. E 150. "  
 " " 354.0 ft. E 214. "  
 " " 347.0 ft. E 132. "  
 " " 385.0 ft. W 100. "  
 " " 447.0 ft. W 132. "  
 " " 457.0 ft. W 214. "  
 " " 385.0 ft. W 100. "  
 " " 437.0 ft. W 185. "  
 " " 407.0 ft. W 271. "  
 " " 408.0 ft. W 230. "

to beginning, being the exterior boundary of said tract of land, and containing 4.57 acres including road 16 ft wide as shown on this plat and on which the present owner M.E. Wilcox reserves a right of way.

Approved and accepted for record by the Commissioners of Weber County Utah, this 27th day of December 1910.

*Frank Moore* Chairman

Don E. Gentry, Surveyor  
Hannah Cherry, Utah.

I W.C. Sumner, a Civil Engineer do hereby certify that the plat hereto attached of Wilcox Camping and Boating Resort, in Weber County, State of Utah, is correct and accurately constructed from the field notes of survey made by me in November 1910.

*W.C. Sumner*

Weber County } ss.  
State of Utah }

Subscribed and sworn to before me this 13th day of December, 1910  
*John E. Bagley*  
 Notary Public  
 My Commission expires March 30th 1913.

REMARKS.	
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*W. J. Levasseur*  
County Surveyor

STATE OF UTAH, ss.  
County of WEBER  
 Filed for record and recorded  
*Charles E. ...* A.D. 1910  
 3<sup>rd</sup> 3<sup>rd</sup> 1910  
 Notary Public, and recorded  
*John E. Bagley*  
 Notary Public

4-57  
6-49



Weber County

June 16, 2014



\*W2690873\*

ER 2690873 PG 1 OF 16  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
17-JUN-14 352 PM FEE \$1.00 DEP TOT  
REC FOR: WEBER COUNTY PLANNING

Notice of Non-buildable Parcel

Legal Description

# 20-019-0003

PART OF LOTS 3, 4, 5 AND 6, WILCOX CAMPING AND BOATING RESORT, WEBER COUNTY, UTAH: BEGINNING SOUTH 37D15'00" EAST 38.01 FEET, MORE OR LESS, FROM THE NORTHEAST CORNER OF SAID LOT 3, RUNNING THENCE SOUTH 37D15' EAST 118.80 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF LOT 5, THENCE SOUTH 51D33'42" WEST 48.45 FEET, THENCE SOUTH 73D32'17" WEST 12.49 FEET, THENCE NORTH 18D32'44" WEST 11.48 FEET, THENCE NORTH 86D10'14" WEST 26.30 FEET, MORE OR LESS, THENCE NORTH 14D50' WEST 10.49 FEET, THENCE NORTH 38D10' WEST 30.50 FEET, THENCE NORTH 59D30' WEST 27 FEET, MORE OR LESS, TO THE CENTER OF WHEELER CREEK, THENCE NORTHERLY ALONG THE CENTER OF WHEELER CREEK TO A POINT WHICH IS SOUTH 74D11'41" WEST 76.68 FEET, MORE OR LESS, FROM THE POINT OF BEGINNING, THENCE NORTH 74D11'41" EAST 76.68 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

RE: Land Serial # 20-019-0003 Notice of Non-buildable Parcel

The parcel of land with the Land Serial Number 20-019-0003 currently lies within the Forest 40 (F-40) Zone which requires a minimum lot size of 40 acres and a minimum lot width of 660 feet on a dedicated right of way for a single family dwelling. This parcel contains approximately 0.22 acres. This parcel with the above description does not meet the current area or width requirements.

Upon this parcel is a home built in 1935. A historic record of the area was submitted to the Planning Division by a former owner (Exhibit A). In 1910 this property was part of a subdivision plat called the Wilcox Camping and Boating Resort (Exhibit B). Since the effective date of zoning for this area of Weber County (1966) portions of these Wilcox lots have been divided and conveyed amongst property owners.

In 2004 the owners of property within the subdivision requested (LLA-2004-01) to adjust the lot lines to an arrangement that referred to a survey that was produced (Exhibit C, D, and E). For clarification the lots were labeled alphabetically and the 1910 configuration was also shown for reference. Parcel B of this survey had a main home, what was labeled as an additional "home" and a shed. Since 2004 the Weber County Planning Division has viewed these adjusted parcels, including all of Parcel B, as legal nonconforming parcels.

However, subsequently the owner of Parcel B in 2005 further divided "B" into small properties (as shown between Exhibit F and G). This concerned one of the new owners of part of Parcel "B" who had the property surveyed in 2010 (Exhibit H). This division is also shown on record with the changes in County ownership plats from 2004 and 2005 (Exhibit I and J). In 2008 Planning Division staff made a note in the file concerning these parcels and found that despite the subsequent deeding of properties, the decision of 2004 was the latest and only land use decision concerning these parcels (Exhibit K).

Based on this information, the Weber County Planning Division does not consider this current configuration of Land Serial Number 20-019-0003 a legal buildable parcel since it was not divided pursuant to the Weber County Subdivision standards nor as per Utah Code, nor can the Weber County Planning Division issue any land use permits for this parcel as it is described. This parcel is considered a non-buildable parcel. This letter addresses the legal status of the parcel based on area and width/frontage requirements only. The site has not been inspected to ensure that existing uses are allowed and existing structures meet required yard setbacks. These factors can also affect a land owner's ability to obtain a Land Use Permit and Building Permit. There may also be additional requirements that need to be met prior to a Building Permit being issued.

Ben Hatfield  
Weber County Planning Division

Dated this 17<sup>th</sup> day of June, 2014

STATE OF UTAH )  
                          )SS  
COUNTY OF WEBER)

On the 17 day of June, 2014, personally appeared before me Ben Hatfield the signer(s) of the foregoing instrument, who duly acknowledged to me that he/she/they executed the same.

Notary Public  
  
Residing at:



December 17, 2002

Mr. Craig Parker  
Mr. Kevin Hamilton  
Weber County Planning Department  
2380 Washington Blvd.  
Ogden, UT 84401

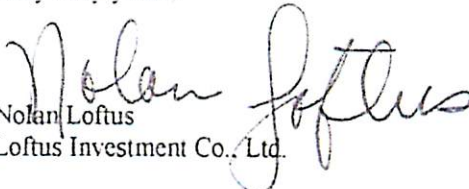
Subject: Wheeler Creek, Wilcox Camping and Boating Resort Subdivision  
Re-survey and History of 950 Ogden Canyon

Gentlemen:

Per our discussion, you requested a history of the house located at 950 Ogden Canyon in the Wheeler Creek area. This history is outlined on the attached pages.

My surveyor and I would like to meet with you to discuss all the objectives of the survey and the problems it will solve. I like your suggestion of abandoning the present Subdivision plot and establishing a new one that compensates for all the changes that have occurred.

Very truly yours,

  
Nolan Loftus  
Loftus Investment Co., Ltd.

Attachment

Exhibit A-1

## HISTORY OF 950 OGDEN CANYON

1892

Mr. Wheeler establishes a logging and lumber mill in the mouth of Wheeler Canyon

1897

The logging business ends.

1898

Wheeler sells land to the Combe family and Leda Combe builds a 2,000 sq. ft. house on the property. At this time the road ended at the Hermitage area. All building materials were carried in on horse back.

1908

Two guest houses were built (942 and 946 Ogden Canyon) next to the Leda Combe house located at 940 Ogden Canyon.

1918

Mr. Wilcox buys the property surrounding the Combe property.

1920

Wilcox establishes the Wilcox Camping and Boating Resort subdivision, consisting of 30 lots of approximately 52 ft. x 150 ft.

1938

The David C. Taylor family buys lot #6 and builds a three bedroom house with 1 bath (originally just an outhouse), front porch and rear porch. The address of this house became 950 Ogden Canyon.

1941

In approximately 1941, it was discovered that the 30 lots were not surveyed correctly in 1920. Therefore, some of the houses were sitting in the middle of the property lines. A new survey was performed and all the residents agreed to the new property line. Some setbacks were compromised at that time.

19??

I do not know the dates, but when the small Pineview Dam was replaced with a larger one that had a spillway, a new road was built that crowded out the Canyon Restaurant in the mouth of Wheeler Creek Canyon (approximately lot 30). Also the right-of-way that gave Wheeler Creek residents access to their homes was abandoned at that time. Snowbasin was developed and became very popular, so the road to Snowbasin was widened and, thus eliminated the use of the Wheeler Creek residents' right-of-way to their houses and lots. A new survey should have been done to record these changes. The residents then began driving over other resident's property to gain access to their houses. The new right-of-way crossed over the creek from the west side to the east side. The County/State promised a bridge because they took the old right-of-way, but a bridge was never built.

1950

In approximately 1950, a bad flood occurred which changed the course of the creek and made the road impassable where it crossed the creek bed. The State/County then put a piece of pipe in where the bridge was supposed to go, which changed the right-of-way once more. A new survey to locate the road and creek should have been done at this time also. Two houses were destroyed in the flood.

19??

The restaurant burns down leaving only the septic tank and foundation.

A-2

1983

Another big flood occurred taking out all the water systems, the creek bed changed course and the pipe bridge was washed away. Four houses saw at least a foot of water above the floors. Building permits were granted to recover from the flood and repairs were made. A new water system using creek surface water was approved and completed.

1991

I bought 950 Ogden Canyon and began using it as a secondary home.

1994

The house was settling from the previous flood, so I fixed one corner.

1996

I fixed another corner on the 950 Ogden Canyon house

1997

Another corner was repaired. Then I got the South Ogden building inspector to look at the house. He said that the stone and mortar foundation would have to be replaced. I hired a contractor to replace the foundation.

Current

In the process of flood repair, I went to the Building Department to get a building permit to repair and remodel the house. I was told that I would need proof of a culinary water system, water rights, put in a new septic tank and drain field system (the old septic system filled with sand during the flood). I would have to meet all the setbacks as well. To present I have obtained water rights, applied for a drilling permit to get culinary water, hired a surveyor, repaired the bridge, engineered a septic system and believe I have or can solve all the problems except the setbacks. I am told that if I paid for a survey to correct all the anomalies in the survey records, right-of-way, creek changes, bad lot or house locations, etc., I could overcome the setback problems.

The house at 950 Ogden Canyon is now and has always been in use. Water is connected, electricity is in use and never has been disconnected. I am retiring soon and need this house rebuilt and ready for my occupancy. Please help in anyway possible.

The Water System

From 1898 to the present, Wheeler Creek residents use gravity pressurized spring water piped down from about ¼ mile up the canyon (so did the restaurant when it was operating).

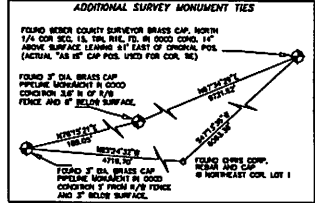
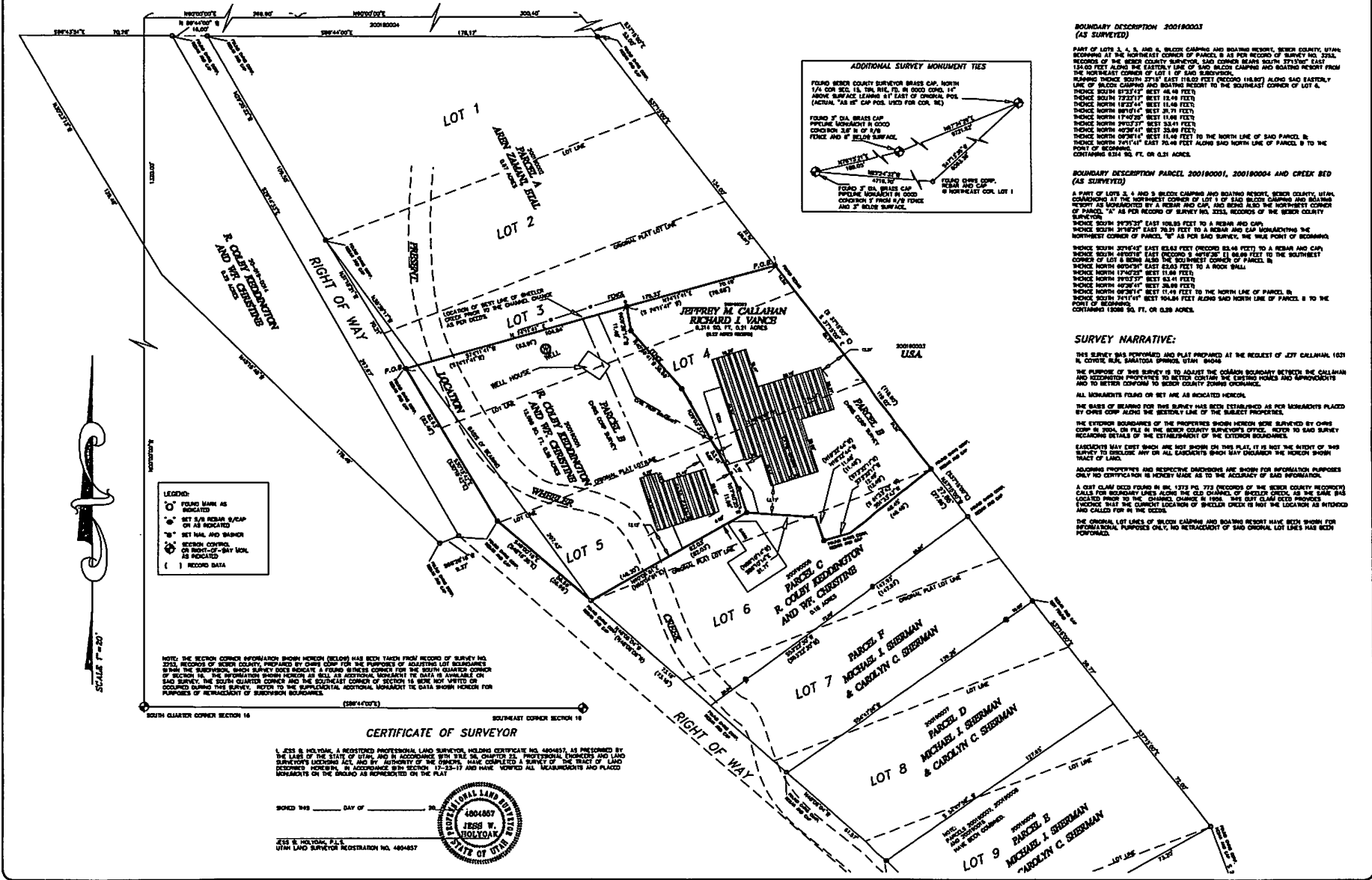
Some time approximately in the 1960's a diversion dam was built ¼ mile up Wheeler Canyon that blocked the residents' water line. The main Pineview Dam was elevated, the main Ogden Canyon road was elevated and changed the culvert under the road that again changed the creek bed. The 2" pipeline serving water to the residents in Wheeler Creek filled with sand, so all the residents had to put pumps in the creek to supply culinary water.

A-3



# RECORD OF SURVEY

PART OF LOTS 3, 4, 5 AND 6, WILCOX CAMPING & BOATING RESORT  
A PART OF THE SOUTHEAST QUARTER OF SECTION 16, T6N, R1E



**BOUNDARY DESCRIPTION 200180003 (AS SURVEYED)**

PART OF LOTS 3, 4, 5, AND 6, WILCOX CAMPING AND BOATING RESORT, BENCH COUNTY, UTAH, BEGINNING AT THE NORTHEAST CORNER OF PARCEL B AS PER RECORD OF SURVEY NO. 2252, RECORD OF THE BENCH COUNTY SURVEYOR, SAID CORNER BEARS TRUE BEARING EAST 124.60 FEET ALONG THE EASTERN LINE OF SAID WILCOX CAMPING AND BOATING RESORT FROM THE NORTHEAST CORNER OF LOT 1 OF SAID SUBDIVISION, BEARING THENCE SOUTH 27°11' EAST 185.00 FEET (RECORD 184.87) ALONG SAG EASTERLY LINE OF WILCOX CAMPING AND BOATING RESORT TO THE SOUTHWEST CORNER OF LOT 6, THENCE SOUTH 83°37'14" WEST 46.48 FEET, THENCE SOUTH 27°27'11" WEST 12.49 FEET, THENCE NORTH 12°27'44" WEST 11.48 FEET, THENCE NORTH 89°07'14" WEST 21.71 FEET, THENCE NORTH 17°02'28" WEST 11.68 FEET, THENCE NORTH 29°02'37" WEST 23.41 FEET, THENCE NORTH 89°07'14" WEST 32.48 FEET, THENCE NORTH 02°07'14" WEST 11.48 FEET TO THE NORTH LINE OF SAID PARCEL B, THENCE NORTH 27°11'41" EAST 70.48 FEET ALONG SAID NORTH LINE OF PARCEL B TO THE POINT OF BEGINNING, CONTAINING 0.21 ACRES, OR 0.21 ACRES.

**BOUNDARY DESCRIPTION PARCEL 200180001, 200180004 AND CREEK BED (AS SURVEYED)**

A PART OF LOTS 3, 4, AND 6, WILCOX CAMPING AND BOATING RESORT, BENCH COUNTY, UTAH, BEGINNING AT THE NORTHEAST CORNER OF LOT 3 OF SAID WILCOX CAMPING AND BOATING RESORT AS MONUMENTED BY A REBAR AND CAP, HAS BEING ALSO THE NORTHEAST CORNER OF PARCEL 1A AS PER RECORD OF SURVEY NO. 2252, RECORDS OF THE BENCH COUNTY SURVEYOR, THENCE SOUTH 27°27'11" EAST 102.85 FEET TO A REBAR AND CAP, THENCE SOUTH 27°27'11" EAST 102.85 FEET TO A REBAR AND CAP MONUMENTING THE NORTHEAST CORNER OF PARCEL 1A AS PER SAID SURVEY, THE TRUE POINT OF BEGINNING, THENCE SOUTH 27°27'11" EAST 102.85 FEET (RECORD 102.85) TO A REBAR AND CAP, THENCE SOUTH 89°07'14" WEST 21.71 FEET TO A ROCK WALL, THENCE NORTH 17°02'28" WEST 11.68 FEET, THENCE NORTH 29°02'37" WEST 23.41 FEET, THENCE NORTH 89°07'14" WEST 32.48 FEET TO THE NORTH LINE OF PARCEL B, THENCE NORTH 27°11'41" WEST 11.48 FEET ALONG SAID NORTH LINE OF PARCEL B TO THE POINT OF BEGINNING, CONTAINING 1.008 SQ. FT. OR 0.232 ACRES.

**SURVEY NARRATIVE:**

THIS SURVEY WAS PERFORMED AND PLAT PREPARED AT THE REQUEST OF JEFF CALLAHAN, 1031 N. CENTER, SALT LAKE CITY, UTAH 84143.

THE PURPOSE OF THIS SURVEY WAS TO ADJUST THE COMMON BOUNDARY BETWEEN THE CALLAHAN AND ADJOINING PROPERTIES TO BECOME CORNER TO THE EXISTING RECORDS AND TO BECOME CORNER TO THE BENCH COUNTY SURVEYOR'S RECORDS.

ALL MONUMENTS FOUND OR SET ARE AS INDICATED HEREON.

THE BASIS OF BEARING FOR THIS SURVEY HAS BEEN ESTABLISHED AS PER MONUMENTS PLACED BY CHAS COOP ALONG THE BENCH COUNTY SURVEYOR'S RECORDS.

THE EXTENSION BOUNDARIES OF THE PROPERTIES SHOWN HEREON WERE SURVEYED BY CHAS COOP IN 1904, ON FILE IN THE BENCH COUNTY SURVEYOR'S OFFICE. REFER TO SAID SURVEY RECORDING DETAILS OF THE ESTABLISHMENT OF THE EXTENSION BOUNDARIES.

ENCLOSURES MAY EXIST WHICH ARE NOT SHOWN ON THIS PLAT, IT IS NOT THE DUTY OF THIS SURVEY TO DISCOVER ANY OR ALL ENCLOSURES WHICH MAY OBTAIN THE WHOLE OR PART TRACT OF LAND.

ADJOINING PROPRIETORS AND RESPECTIVE CARRIERS ARE SHOWN FOR INFORMATION PURPOSES ONLY. NO CERTIFICATION IS GIVEN AS TO THE ACCURACY OF SAID INFORMATION.

A CERT CLAIM DEED FOUND IN BK. 1272 PG. 773 (RECORDS OF THE BENCH COUNTY RECORDS) CALLS FOR BOUNDARY LINES ALONG THE OLD CHANNEL OF SHELLEN CREEK, AS THE SAME HAS LOCATED PRIOR TO THE CHANNEL CHANGING IN 1904. THIS OLD CLAIM DEED PROVIDES EVIDENCE THAT THE CURRENT LOCATION OF SHELLEN CREEK IS NOT THE LOCATION AS INTENDED AND CALLED FOR IN THE RECORDS.

THE ORIGINAL LOT LINES OF WILCOX CAMPING AND BOATING RESORT HAVE BEEN SHOWN FOR INFORMATION PURPOSES ONLY. NO RETRACEMENT OF SAID ORIGINAL LOT LINES HAS BEEN PERFORMED.

**CERTIFICATE OF SURVEYOR**

I, JESS W. HOLYOAK, A REGISTERED PROFESSIONAL LAND SURVEYOR, HOLDING CERTIFICATE NO. 4804457, AS PRESCRIBED BY THE LAWS OF THE STATE OF UTAH, AND IN ACCORDANCE WITH TITLE 36, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS ACT, AND BY AUTHORITY OF THE OWNERS, HAVE COMPLETED A SURVEY OF THE TRACT OF LAND DESCRIBED HEREON, IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE MONUMENTED ALL MEASUREMENTS AND PLACED MONUMENTS ON THE GROUND AS REPRESENTED ON THE PLAT.

WITNESSED AND DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

JESS W. HOLYOAK, P.L.S.  
UTAH LAND SURVEYOR REGISTRATION NO. 4804457



**MOUNTAIN ENGINEERING**

P. O. BOX 308  
MORGAN, UTAH 84050  
TEL. (801) 876-3978 FAX 876-3979

REVISION	DATE	BY	CHECKED	DATE

**RECORD OF SURVEY**

PART OF LOTS 3, 4, 5 AND 6, WILCOX CAMPING & BOATING RESORT  
A PART OF THE SOUTHEAST QUARTER OF SECTION 16,  
TOWNSHIP 6 NORTH, RANGE 1 EAST,  
SALT LAKE BASE AND MERIDIAN, U.S. SURVEY  
BENCH COUNTY, UTAH

JEFF CALLAHAN, 1031 N. CENTER BLVD., SALT LAKE CITY, UTAH 84143  
DATE: 12-13-15  
BY: JWH  
CHECKED: JWH  
DATE: DECEMBER, 2015

**WEBER COUNTY BOARD OF ADJUSTMENT  
RULES OF PROCEDURE AND ETHICAL CONDUCT**

A Board of Adjustment shall be governed by the provisions of all applicable Statutes, County Ordinances and these rules.

**I**

**MEMBERS**

The Board of Adjustment shall each consist of five voting members, and two alternates, all of whom shall be citizen members appointed by the County Commission in accordance with the provisions of Utah Code Annotated and Weber County Ordinances .

**II**

**OFFICERS AND DUTIES**

**A. Chair and Vice Chair**

The Board of Adjustment shall elect annually, during the first regularly scheduled meeting in January, a Chair and Vice Chair who may be elected to succeed themselves for one additional term only. The Chairman shall be elected from the voting members of the Board of Adjustment by a majority of the total membership. The Chair, or in his/her absence or incapacity, the Vice Chair, shall preside over all meetings and hearings of the Board of Adjustment and shall execute all official documents and letters of the Board of Adjustment.

**B. Secretary**

The Director of Planning or his/her designated Staff member shall be the Secretary of the Board of Adjustment.

**III**

**MEETINGS**

**A. Quorum**

Three (3) or more members shall constitute a quorum for the transaction of business and the taking of official action; however, in the case of only three members in attendance, a unanimous vote shall be required to approve or deny an application.

**B. Time of Meeting**

Regular meetings shall be held on the second and fourth Thursdays of each month, or at the call of the Chair, at a time to be scheduled by Staff in the Weber County Commission Chambers of the Weber Center, 2380 Washington Blvd., Ogden. The date of the regular meeting may be changed by the majority of the total membership of the Board of Adjustment provided at least one week notice is given each member of the new date of a regular meeting.

**C. Meetings Open to the Public**

All regular or special meetings of the Board of Adjustment shall be open to the public.

**D. Order of Business**

The order of business shall be:

1. Approval of the minutes of previous meeting
2. Petitions for Variance, Special Exceptions or other applicable matters.
3. Other Business
4. Adjournment

The Board of Adjustment may change the order of business or consider matters out of order for the convenience of the applicants or other interested persons.

**E. Voting**

An affirmative vote of the three (3) or more of the voting members present at the meeting shall decide all matters under consideration by the Board of Adjustment unless otherwise provided for in these rules.

Voting shall be by voice vote. The Chair votes on all questions unless the Chair has declared a conflict of interest on a specific issue under consideration before the Board of Adjustment. No voting member of the Board shall be allowed to abstain from voting on any matter under consideration by the Board, unless that member has declared a conflict of interest on the matter under consideration before the Board of Adjustment.

**F. Parliamentary Procedure**

Parliamentary procedure in Board of Adjustment meetings shall be governed by Robert's Rules of Order, as revised.

**G. Suspension of Rules**

The Board of Adjustment may suspend any of these rules by a majority vote of the entire Board.

**H. Record of Meetings**

The Secretary of the Board of Adjustment shall keep an accurate record of the proceedings and perform other duties as the Board of Adjustment may determine.

**J. Meeting Agenda**

The Planning Director or his designated Staff member shall review items proposed for the Board of Adjustment meeting agenda to determine whether all requirements necessary for Board of Adjustment consideration have been complied with. The Board shall establish reasonable deadlines for submission of applications and other items for Board of Adjustment consideration prior to a Board of Adjustment meeting to allow sufficient time for staff and agency review.

**K. Non Performance or Misconduct - Removal from Office**

In the event any member of the Board of Adjustment shall fail to attend more than seventy percent of the Board of Adjustment meetings held during any one year, the member may be removed from office by an affirmative vote of the majority of the County Commission. Any member of the Board of Adjustment may be removed for cause, upon written charges, by an affirmative vote of the majority of the County Commission. The member shall be provided a Public Hearing, if requested.

**IV**

**CONSIDERATION OF APPLICATIONS**

**A. Hearing Procedure**

Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment. The order of procedure in the hearing of each application shall be as follows:

1. Presentation by the Planning Staff of the application, including staff recommendation.

Presentation shall include the reading of pertinent written comments or reports concerning the application.

2. Additional presentation by applicant or his/her agent.
3. Public comments in favor of application.

4. Public comments against application.
5. Rebuttals by invitation of the Chair.

**B. Decisions**

Decisions and/or recommendations of the Board of Adjustment shall be final at the end of the meeting at which the matter is decided. The Board of Adjustment Staff shall send a Letter of Decision to the applicant, his/her attorney or agent.

**V**

**RULES OF ETHICAL CONDUCT FOR A BOARD OF ADJUSTMENT MEMBER**

**Preamble**

1. Ethical practice has special relevance to all people who are charged with responsibilities in public service. Board members, whose decisions and actions have long-range consequences for later generations, must be keenly concerned to adhere to ethical principles.
2. Codes of ethics, as commonly adopted, present a catalog of temptations that are prohibited. It cannot be an exhaustive catalog: human imagination is sufficiently rich to discover new variations of old temptations. The existence of a code simply puts a challenge, to some, to find a gap or loop-hole. Emphasis must be put not on the letter of prohibition but on the spirit of observance. A performance standard of ethical behavior will be superior to a specification standard.

**A. Conflict of Interest**

A Board of Adjustment member to whom some private benefits may come as the result of a Board of Adjustment action should not be a participant in the action.

1. The private benefit may be direct or indirect, create a material, personal gain or provide a distinct advantage to relations or to friends or to groups and associations which hold some share of a person's loyalty. However, mere membership itself in a group or organization shall not be considered a conflict of interest as to Board of Adjustment action concerning such groups or associations unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.
2. A Board member experiencing, in his/her opinion, a conflict of interest, should declare his/her interests publicly, abstain from voting on the action, and may excuse himself/herself from the

room during consideration of the action. He/she should not discuss the matter privately or with any other Board member. The vote of a Board member experiencing a conflict of interest who fails to disqualify himself shall be disallowed.

3. A conflict of interest may exist under these rules although a Board member may not believe he/she has an actual conflict; therefore, a Board member who has any question as to whether a conflict of interest exists under these rules should raise the matter with the other Board members and the County Attorney's representative in order that a determination may be made as to whether a conflict of interest exists.
4. No Board of Adjustment member should engage in any transaction in which he/she has a financial interest, direct or indirect, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.
5. The Board members that the County Commission, in making appointments to the Board of Adjustment, not attempt to exclude whole categories or associations of business, professional, or other persons in anticipation of conflict of interest problems. The service of competent people of good character need not be sacrificed. Their withdrawal from participation in planning matters is necessary only in those specific cases in which a conflict of interest arises.

**B. Gifts and Favors**

Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility.

The value of a gift or advantage and the relation of the giver to public business should be considered in determining acceptability. Small gifts that come in the form of business lunches, calendars or office bric-a-brac are often, not always, acceptable. In cases of doubt, refuse. In cases of marginal doubt, refuse.

**C. Treatment of Information**

It is important to discriminate between information that belongs to the public and information that does not.

1. Reports and official records of a public agency must be open on an equal basis to all inquiries. Advice should not be furnished to some unless it is available to all.

2. Information on private affairs that is learned in the course of performing planning duties must be treated in confidence. Private affairs become public affairs when an official action -- such as an application for Variance or Special Exception -- is requested with respect to them. Only then is a disclosure of relevant information proper.
3. Information contained in studies that are in progress should not be divulged except in accordance with established agency policies on the release of its studies.
4. Prearranged private meetings between a Board of Adjustment member and applicants, their agents, or other interested parties are prohibited. Partisan information on any application received by a Board of Adjustment member whether by mail, telephone, or other communication should be made part of the public record.

D. **Political Activity**

Membership in a political party and contributions to its finances or activities are matters of individual decision that should neither be required of nor prohibited to Board of Adjustment members.

1. The extent of participation in political activities should be governed by professional judgment as well as limited by any applicable civil service law or regulation.
2. The powers of the Board of Adjustment must not be exercised, nor their duties performed, in any way that will create special advantages for a political party. The special position of a Board of Adjustment member should not be used to obtain contribution or support for a political party and should not be used to obtain partisan favors.
3. Partisan debate of a community's planning program and the consideration of planning in a party's platform is proper. Planning Officials should, however, give political parties equal access to information.

# 2016

## JANUARY

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### CALENDAR KEY :

	Western Weber County Planning Commission
	Ogden Valley Planning Commission (1 <sup>st</sup> Tues. Work Session)
	Board of Adjustment (Scheduled only if a case is received)
	WACOG
	County Holidays
	Pay Days
	Agency Review Committee (ARC)

### NOTES

★ Wed. Jan 20 – PC/BOA Annual Dinner

If a Primary Election is needed: June 28

## APRIL

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# 2016

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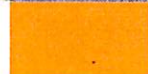






## AUGUST

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## SEPTEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

### CALENDAR KEY :

	Western Weber County Planning Commission
	Ogden Valley Planning Commission (1 <sup>st</sup> Tues. Work Session)
	Board of Adjustment (Scheduled only if a case is received)
	WACOG
	County Holidays
	Pay Days
	Agency Review Committee Meeting (ARC)

### NOTES



Wed. Jan 20 – PC/BOA Annual Dinner

## OCTOBER

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

## NOVEMBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

## DECEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

