



# 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

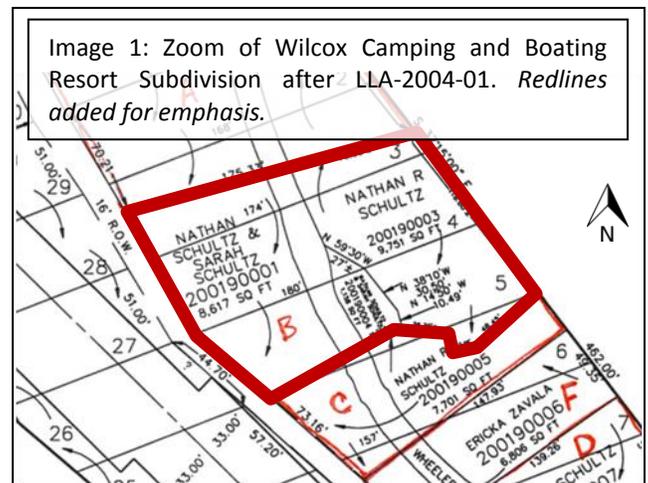
**Zoning requirements for the Subject Property:** The subject property is located in the F-40 zone. The F-40 zone is intended for forest uses<sup>2</sup> that require a minimum lot size of 40 acres and a minimum lot width of 660 feet<sup>3</sup>. The minimum setback standards for single family dwelling 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.

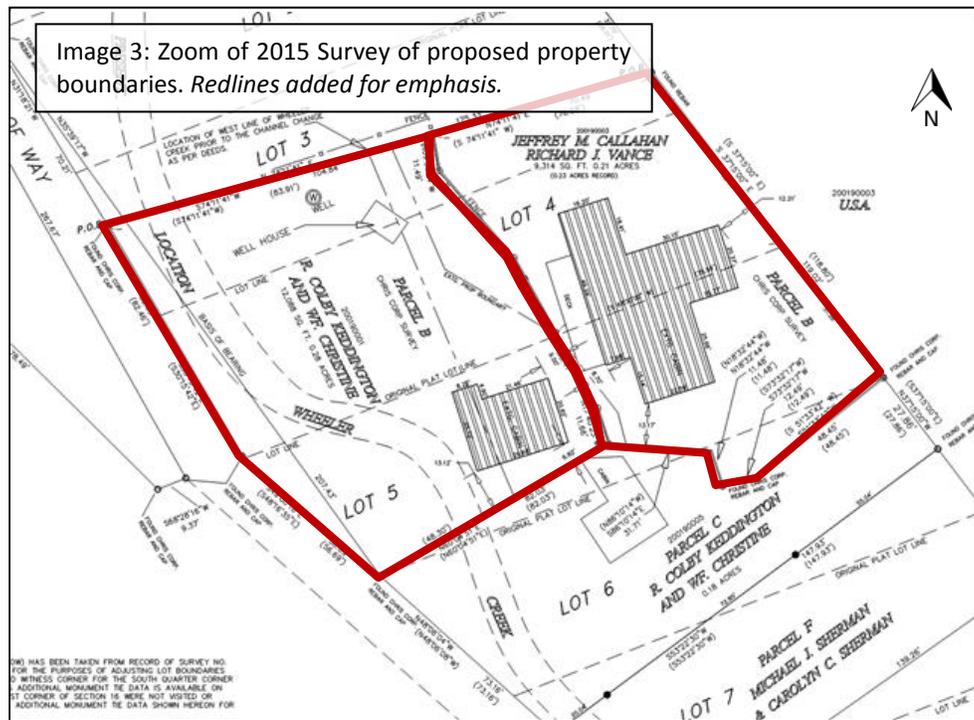
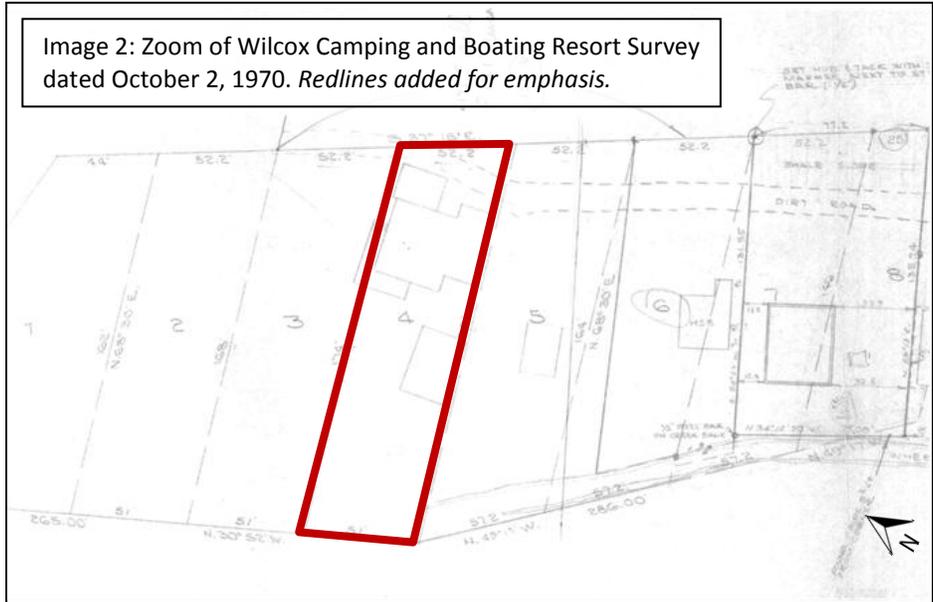
<sup>6</sup> See Exhibit B for the full document depicting the 2004 lot line adjustment that created the legal "Parcel B."

<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,



<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					
	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)	Existing	Proposed
<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 <i>12/15/15</i>	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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## Property Owner Contact Information

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

## Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

## Appeal Request

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

Existing Measurements		Required Measurements (Office Use)	
Lot Area <i>See plats</i>	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.

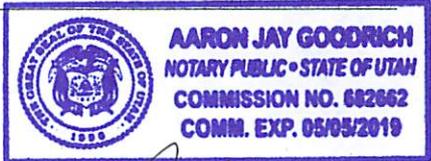
*See attached letters*

**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]*

*[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**

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

<b>IMPROVEMENT</b>	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 IMP#: 1

CLASS:	STRY HGT: 8	BLT AS CODE: 91	SPRINKLER SF:	<b>BLT AS#: 1</b>
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			

## 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:

WEBER COUNTY TAXPAYER REPORT

LSN: 20-019-0004

#	ADDRESS:	UNIT #	CITY:	LOT #	SITE NAME:	BUSINESS NAME:	IMP #
1	942 W OGDEN CYN		OGDEN		Wilcox Camp		

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

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

## IMPROVEMENTS

<b>IMPROVEMENT</b>	IMP COST TYP: Residential	QUALITY: Average
<b>IMP#: 1</b>	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 IMP#: 1

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:
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<b>IMPROVEMENT</b>	IMP COST TYP: Residential	QUALITY: Fair
<b>IMP#: 2</b>	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 IMP#: 2

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



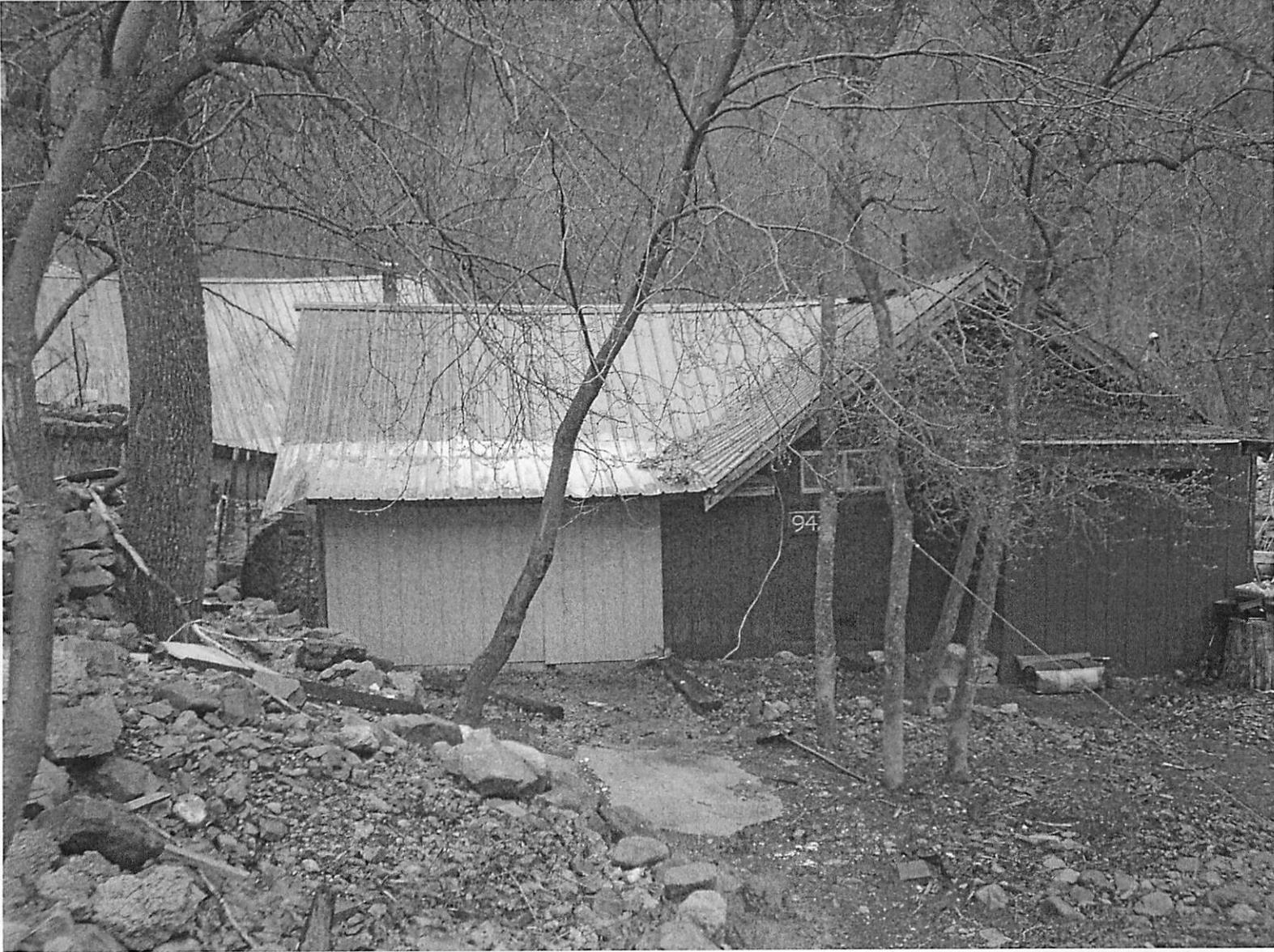
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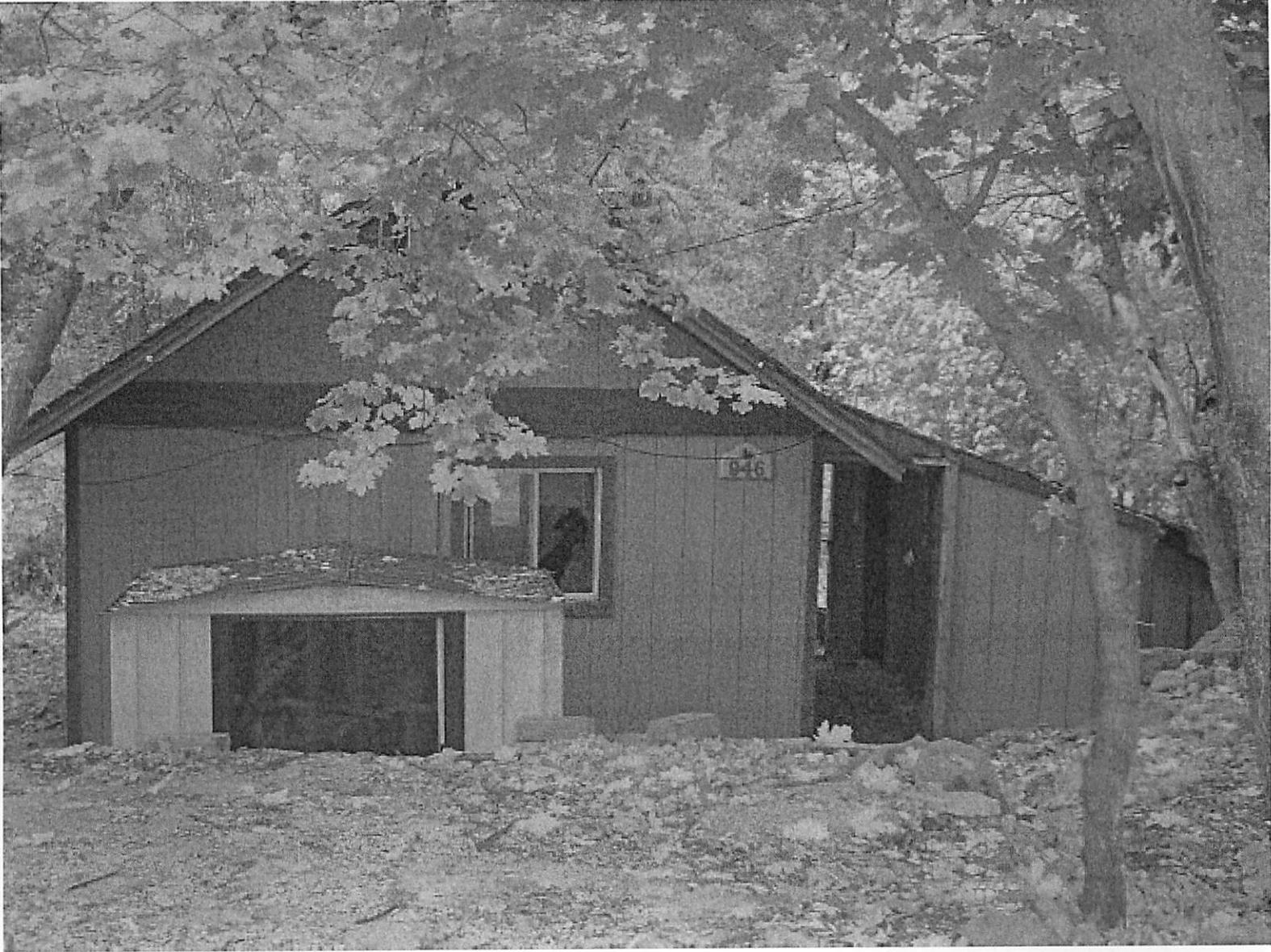


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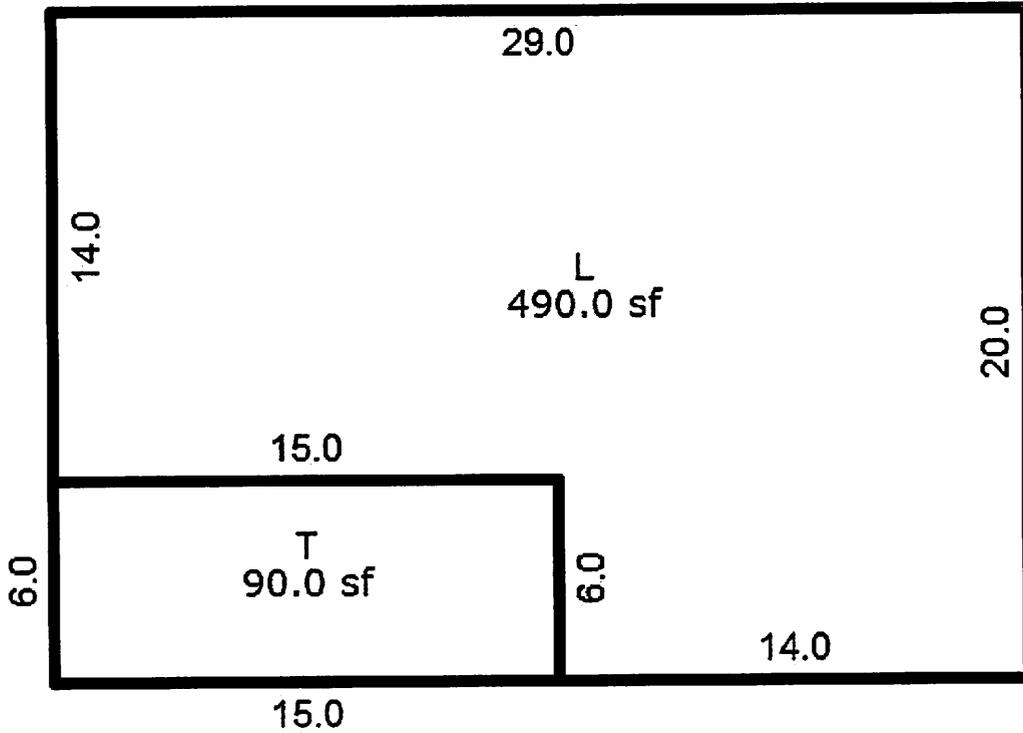


0004









Sketch by Apex Medina™

**20-019-0005**

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 at M. Fuu Paid S. 826719 RUTHERFORD WEBER  
 by Dep. Book Page 135 Robert Robert J. Weber  
 Mail tax notice to Address DEC 18 2 29 PM '80  
 20-017-0001 0014, 0003  
 20-018-0004  
 0005

QUIT CLAIM DEED

AND RECORDED FOR Bary D. Larson & Assoc

PLATTED  RECORDED   
 ENTERED  MICROFILMED  grants

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

grantee for the sum of (\$10,000) DOLLARS  
 of Ogden County of Weber, Utah  
 Ten and no/100 and other good and valuable consideration  
 the following described tract of land in County,  
 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 294.5 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 85° 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 the 10 day of December  
 and Alanna B. Loftus

1980 personally appeared before me Nolan M. Loftus

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

Janet Hostetler  
 Notary Public, residing at

My commission expires July 13, 1983 Salt Lake City, Utah

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

BOOK 1673 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.

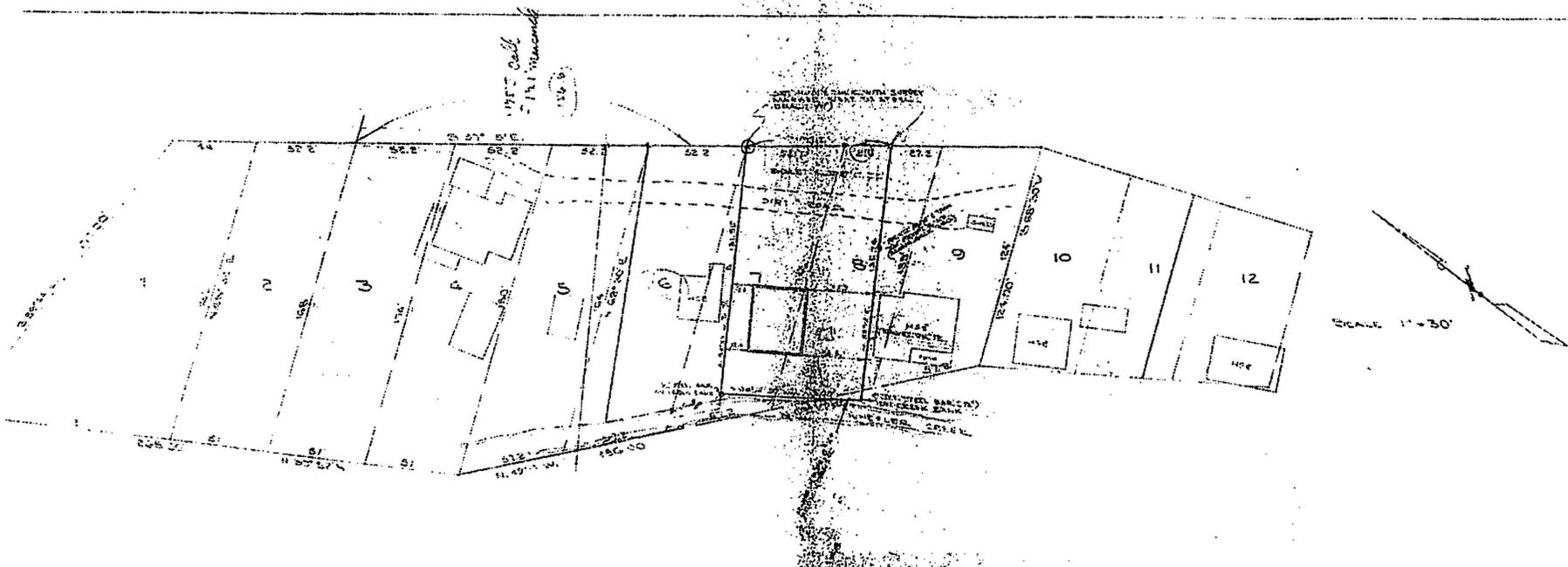
A part of Lots 4, 5, and 6 of the Wilcox Camping and Boating Resort, a subdivision of a part of the Southwest Quarter of the Southeast Quarter of Section 16, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U. S. Survey: Beginning 20 feet Southeasterly from the intersection of the North line 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 Camping and Boating Resort situated in the Southeast quarter of Section 16, TOWNSHIP 12N, RANGE 12E, S. 47N. Beginning at the Northwest corner of said lot 27, thence Southwesterly to a point 25 feet Southwesterly along Mosier Creek from the north line of said lot 7; thence Southwesterly along said Mosier Creek 27.35 feet more or less, thence Northwesterly to a point 25 feet Southeast from the Southeast corner of said lot 27. Thence Northwesterly to beginning. Also all that portion of said lot 7 lying South and West of said Mosier Creek including house and all buildings whatsoever upon said land.

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

1. that the above plat has been correctly drawn to the assigned 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 Weber County Recorder's Office
  - b. records of the Weber County Engineer's Office and
  - c. property line stake found in place
  - d. physical occupation of property.

In the absence of official Section or Quarter Section corners in place and used as data, and absence of monumentation at the subdivision boundaries, the undersigned also certifies to correctness of the survey based on data noted above.

Date: October 3, 1970 Job No. 87-25-192



*Larry M. Butters*  
 GREAT BASIN SURVEYING & CONSULTING, INC.  
 1000 S. 1000 W. SALT LAKE CITY, UTAH 84143

MC-141

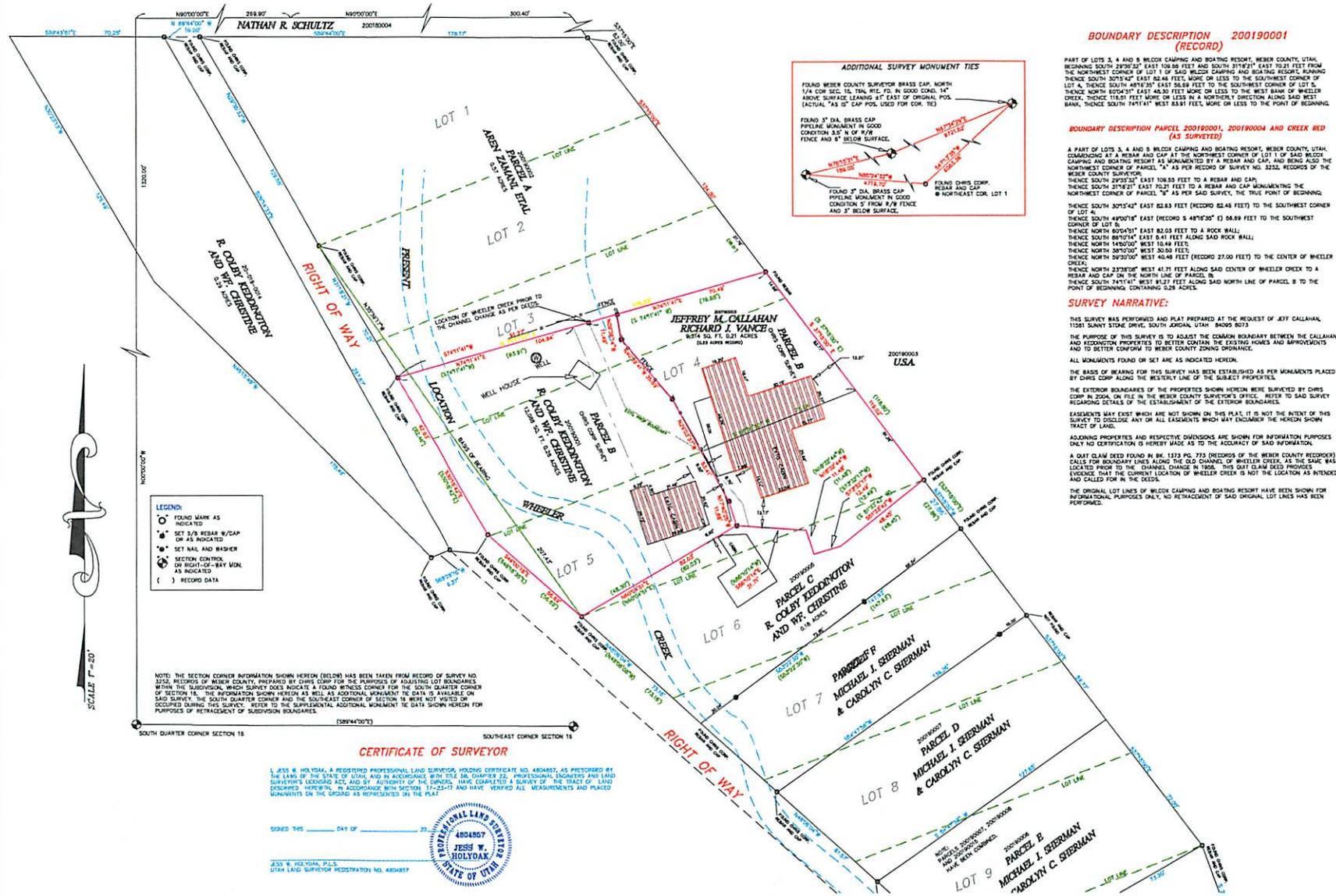
GREAT BASIN SURVEYING & CONSULTING, INC.  
 CONSULTING SURVEYORS & ENGINEERS  
 1000 S. 1000 W. SALT LAKE CITY, UTAH 84143

Property Survey for  
 First Security  
 11210 5000 S. 1000 W.  
 JAMES CONNER & DAUGHTER

DRAWN BY: L.M.B. CHECKED BY: [ ]  
 DATE: Oct. 2, 1970 SCALE: 1" = 30'

# 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



**MOUNTAIN ENGINEERING**  
P. O. BOX 309  
MIDWINTER, UTAH 84020  
TEL (801) 878-3375 FAX (878-3375)

NO.	DATE	BY	COMMENTS

ISSUED BY: JWH  
CHECKED BY: JWH  
DATE: OCTOBER 2018

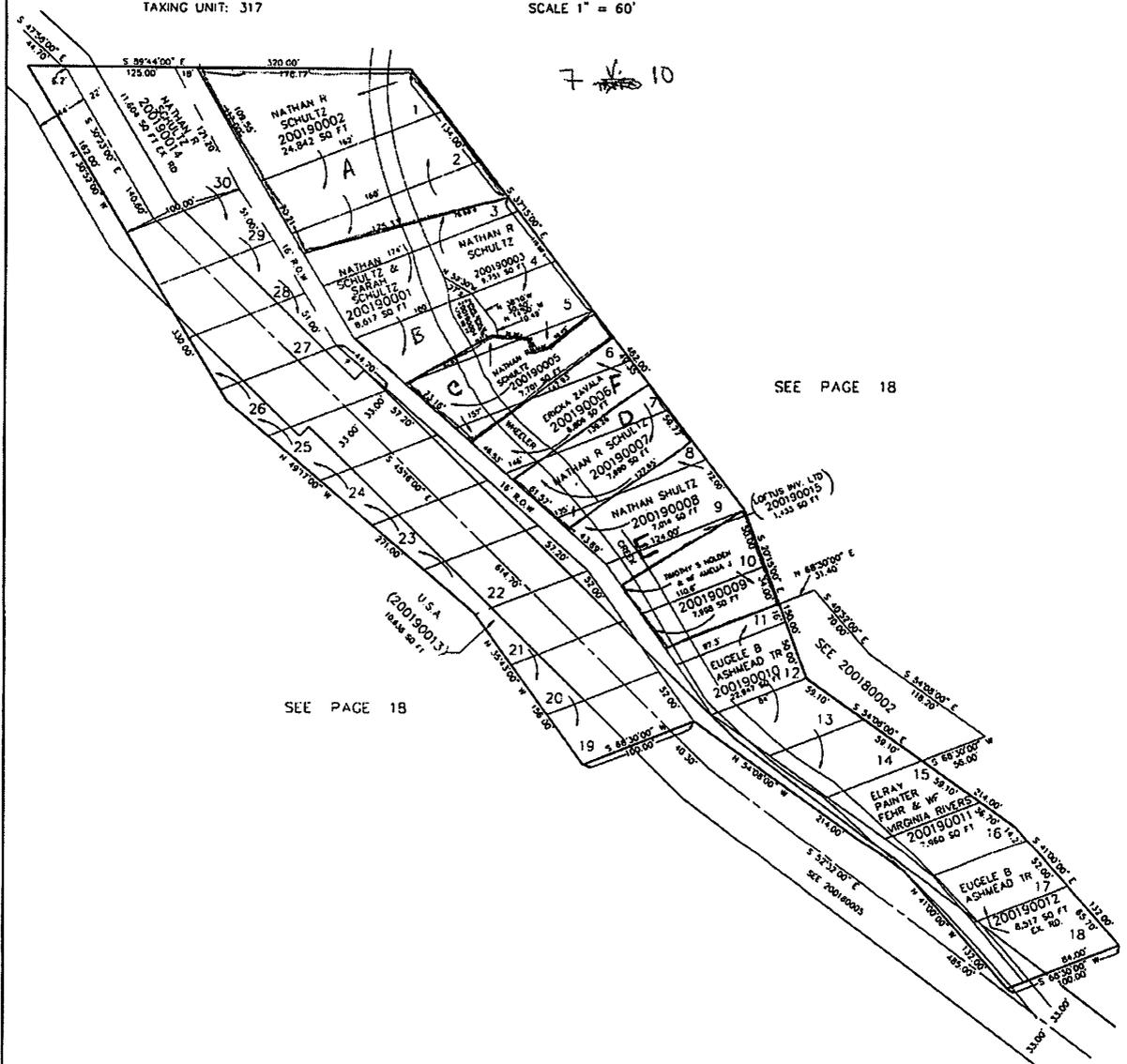
**RECORD OF SURVEY**

PART OF LOTS 3,4,5 AND 6, WILCOX CAMPING & BOATING RESORT  
A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER,  
SECTION 16, T6N, R1E, AND A PART OF THE SOUTHWEST QUARTER,  
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SECTION 100, T6N, R1E, AND A PART OF THE SOUTHWEST QUARTER,

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

TAXING UNIT: 317

IN WEBER COUNTY  
 SCALE 1" = 60'

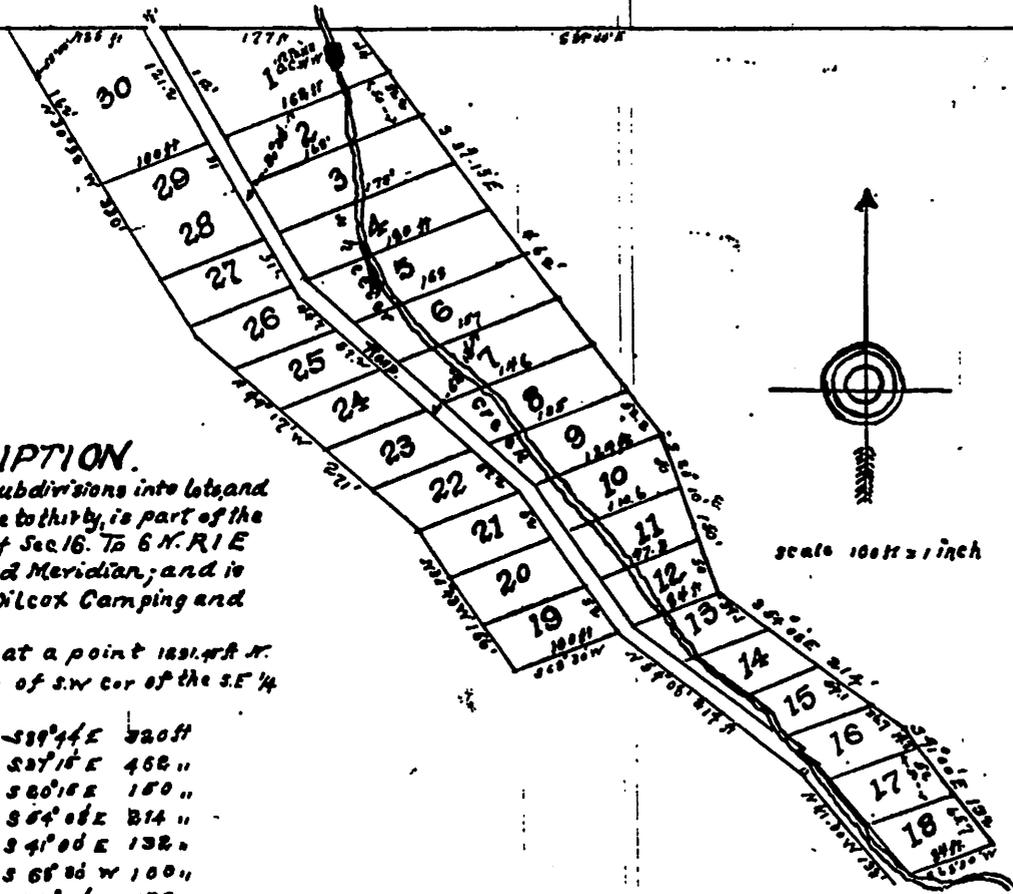


SEE PAGE 18

SEE PAGE 18

# WILCOX 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 "Wilcox Camping and Boating Resort."

Beginning at a point 181.47 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.	S 89° 44' E	320 ft
"	"	S 87° 15' E	458 "
"	"	S 60° 15' E	150 "
"	"	S 64° 08' E	314 "
"	"	S 41° 08' E	132 "
"	"	S 68° 30' W	100 "
"	"	N 41° 06' W	132 "
"	"	N 57° 35' W	214 "
"	"	S 68° 30' W	100 "
"	"	N 35° 48' W	156 "
"	"	N 79° 17' W	271 "
"	"	N 30° 58' W	330 "

to beginning, being the exterior boundary of said tract of land, and containing 4.67 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.

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 November 1910  
John E. Bagley  
Notary Public  
My commission expires March 30th 1913.



Workspaces ▾



200190002

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200180003

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OGDEN CYN

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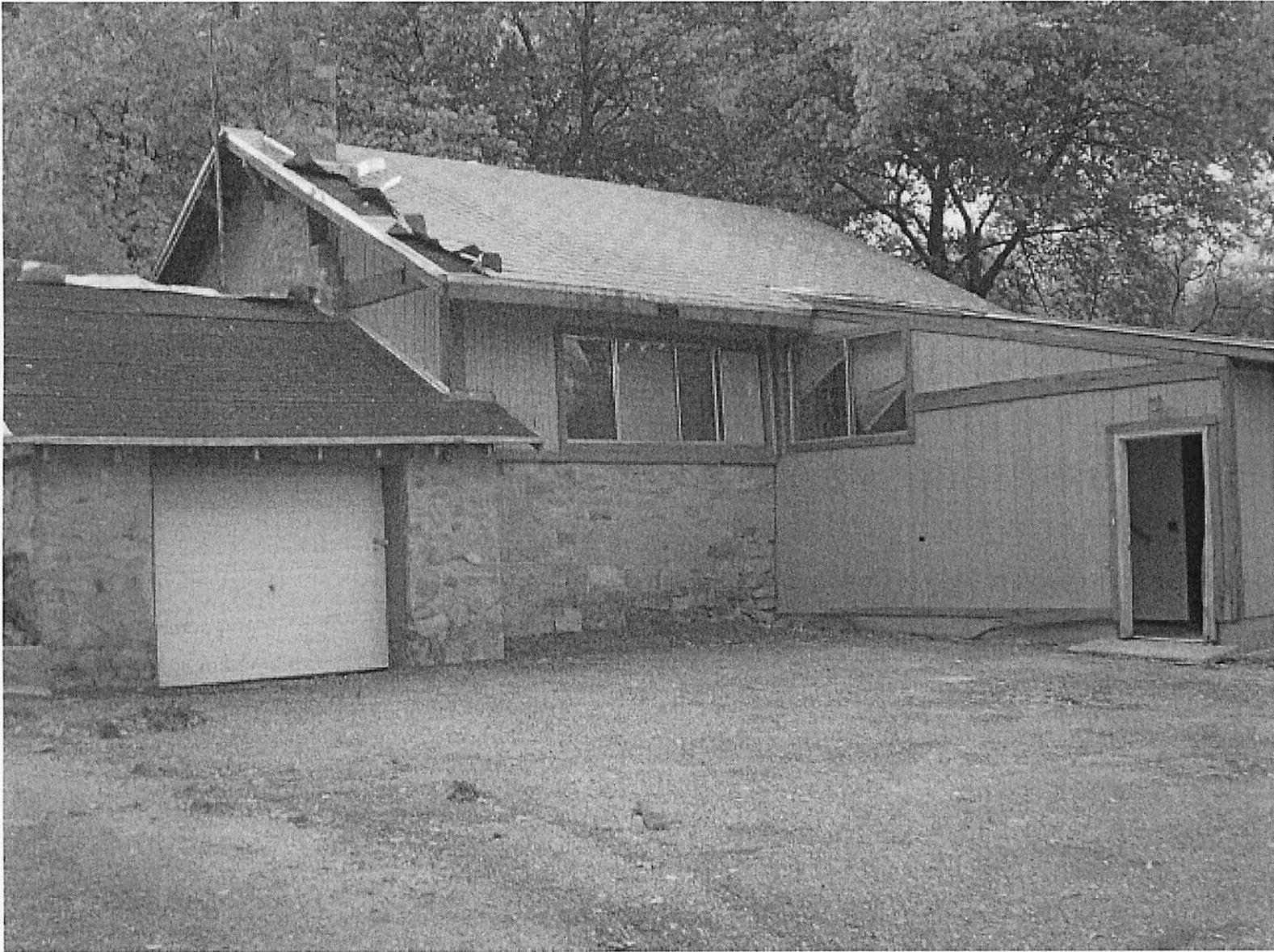
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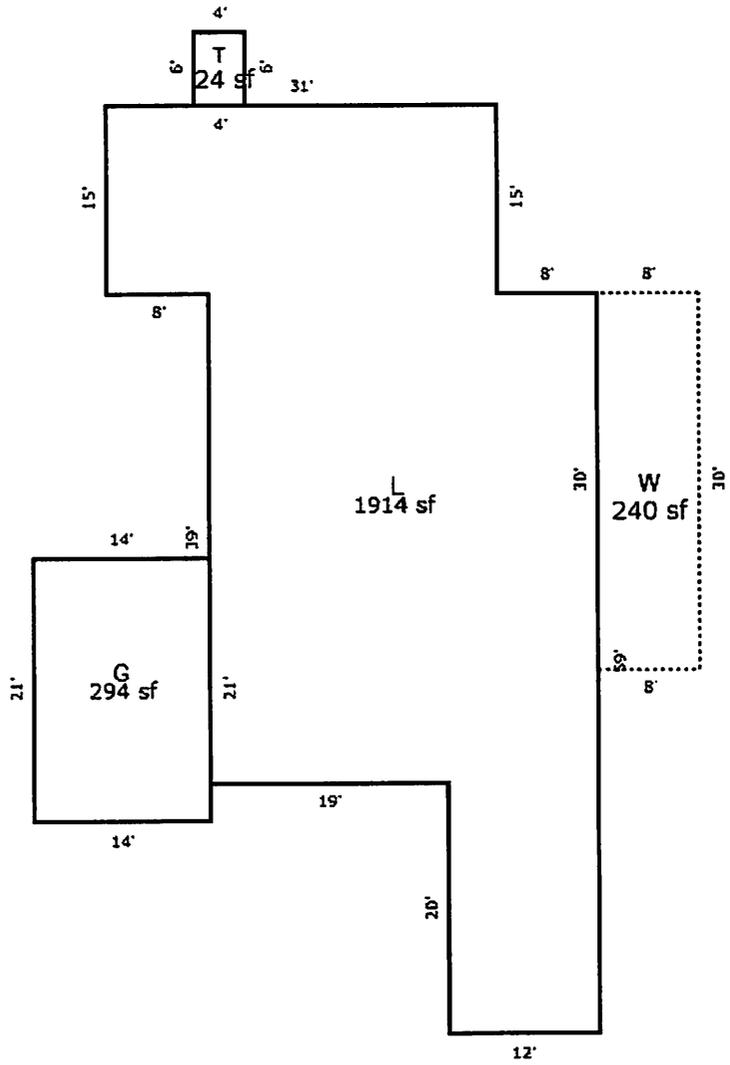


0003

2013



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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

IN WEBER COUNTY

SCALE 1" = 60'

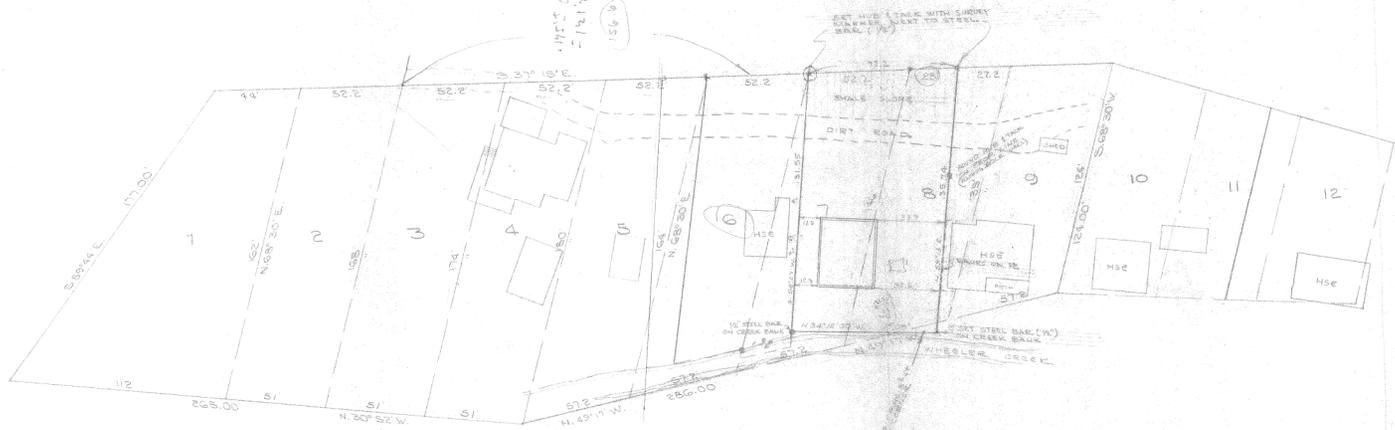
TAXING UNIT: 317

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SEE PAGE 18

SEE PAGE 18



**DESCRIPTION**

Part of Lots 7 and 8 in Wilcox Camping and Boating Resort situated in the Southeast quarter of Section 16, T6N, R1E, S180W, U.S. Survey; Beginning at the Northeast corner of said Lot #7, thence Southwesterly to a point 26 feet Southeastly along Wheeler Creek from the North line of said Lot 7; thence Southeastly along said Wheeler Creek 82.15 feet more or less, thence Northwesterly on a point 25 feet Southeast from the Southwest corner of said Lot #7; thence Northwesterly to beginning. Also all that portion of said Lot 7 lying South and West of said Wheeler Creek including house and all buildings whatsoever upon said land.

The undersigned, a Registered Land Surveyor, as required by the State of Utah, 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 date made was based on the following data:
  - a. records of the Weber County Records Office
  - b. records of the Weber County Engineers Office and
  - c. property line stake found in place
  - d. physical occupation of property.

In the absence of official Section or Quarter Section corners in place and used as data, and absence of monumentation of the subdivision boundary, the undersigned only certifies to correctness of the survey based on data noted above.

Date: October 2, 1970 Job No. PS-70-307

LARRY M. BUTTARS  
No. 2576  
GREAT BASIN ENGINEERING & SURVEYING, INC.

MC-141

**GREAT BASIN MAPPING & SURVEYING CO.**  
CONSULTING ENGINEERS & SURVEYORS  
1902 GRAND AVENUE  
COURT HOUSE BUILDING  
SALT LAKE CITY, UTAH

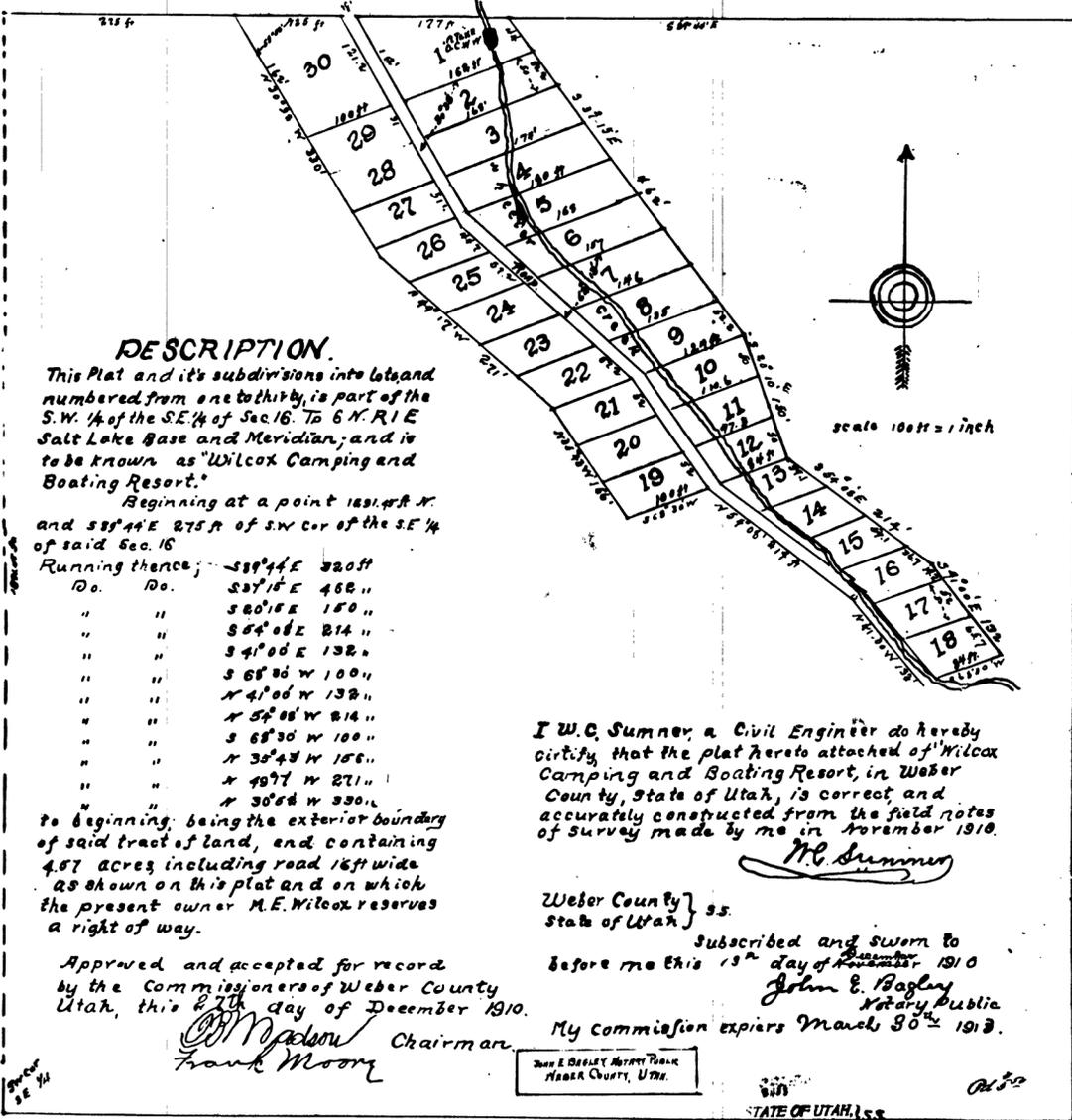
Property Survey  
for  
First Security Bank  
Annie Grace Wilson Property  
Wilcox Camping & Boating Resort

DRAWN: L.M.B. CHECKED: [Signature]  
DATE: Oct 2, 1970 SCALE: 1" = 30' DRAW NO: PS-70-307

# WILCOX CAMPING AND BOATING RESORT.

6-49  
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 1831.48 ft. N. and 589'44" E. 275 ft. of S.W. cor. of the SE. 1/4 of said Sec. 16

Running thence;

Do.	Do.	S 89° 44' E 320 ft
"	"	S 87° 15' E 468 "
"	"	S 80° 15' E 150 "
"	"	S 64° 08' E 214 "
"	"	S 41° 00' E 132 "
"	"	S 68° 30' W 100 "
"	"	N 41° 00' W 132 "
"	"	N 57° 00' W 214 "
"	"	S 68° 30' W 100 "
"	"	N 32° 43' W 156 "
"	"	N 49° 17' W 271 "
"	"	N 30° 58' W 330 "

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  
*Frank Moore*

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 1912.

JOHN E. BAGLEY, Notary Public  
Weber County, Utah.

*Chas. H. J. Larsen*  
County Surveyor

### REMARKS.

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STATE OF UTAH, ss.  
County of Weber  
Filed for record and recorded  
*Shirley* 27th A. D. 1910  
at 9:25 o'clock P. M. and recorded  
in book *Shirley*  
County Recorder

4-57  
6-49



**Weber County**

June 16, 2014



\*W2690873\*

EW 2690873 PG 1 OF 16  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
17-JUN-14 352 PM FEE \$.00 DEP TDT  
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, RUNNINGTHENCE SOUTH 37D15' EAST 118.80 FEET, MORE OR LESS, TO THESOUTHEAST CORNER OF LOT 5, THENCE SOUTH 51D33'42" WEST 48.45FEET, THENCE SOUTH 73D32'17" WEST 12.49 FEET, THENCE NORTH18D32'44" WEST 11.48 FEET, THENCE NORTH 86D10'14" WEST 26.30FEET, MORE OR LESS, THENCE NORTH 14D50' WEST 10.49 FEET,THENCE NORTH 38D10' WEST 30.50 FEET, THENCE NORTH 59D30' WEST27 FEET, MORE OR LESS, TO THE CENTER OF WHEELER CREEK, THENCENORTHERLY ALONG THE CENTER OF WHEELER CREEK TO A POINT WHICHIS SOUTH 74D11'41" WEST 76.68 FEET, MORE OR LESS, FROM THEPOINT 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**

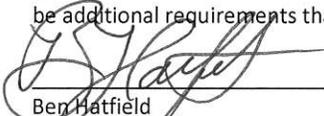
The parcel of land with the Land Serial Number 20-019-0003 currently lies within the Forest 40 (F-40) Zone which requires a minimum lot size of 40 acres and a minimum lot width of 660 feet on a dedicated right of way for a single family dwelling. This parcel contains approximately 0.22 acres. This parcel 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.

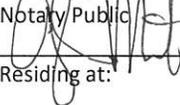
However, subsequently the owner of Parcel B in 2005 further divided "B" into small properties (as shown between Exhibit F and G). This concerned one of the new owners of part of Parcel "B" who had the property surveyed in 2010 (Exhibit H). This division is also shown on record with the changes in County 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

