



Staff Report for Administrative Subdivision Approval

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on an administrative application for final approval of the Benstog Subdivision, a small subdivision consisting of three lots and an alternative access by private right of way.

Type of Decision: Administrative

Agenda Date: Friday, June 02, 2017

Applicant: Patrick Benstog

File Number: UVB031617 and AAE 2017-02

Property Information

Approximate Address: 9282 East 500 South, Huntsville, UT 83417

Project Area: 12 acres

Zoning: Agriculture Valley (AV-3) Zone

Existing Land Use: Residential

Proposed Land Use: Residential

Parcel ID: 21-023-0005

Township, Range, Section: T6N, R2E, Section 16

Adjacent Land Use

North: Residential	South: Residential
East: Residential	West: Residential

Staff Information

Report Presenter: Steve Burton
sburton@co.weber.ut.us
801-399-8766

Report Reviewer: RK

Applicable Ordinances

- Weber County Land Use Code Title 104 (Zones) Chapter 6 (AV-3 Zone)
- Weber County Land Use Code Title 106 (Subdivisions)
- Weber County Land Use Code Title 108 Chapter 7 (Flag lot access strip, private right-of-way, and access easement standards)

Background and Summary

The applicant is requesting approval of Benstog Subdivision, including an alternative access by private right of way, located at approximately 9282 East 500 South, Huntsville. The subdivision will consist of 3 lots, 2 of which will have adequate frontage along 500 South. Lot 3 is proposed to have access by a 25' wide private right of way located on lot 2. The application states that an irrigation pond and ditch are located on the proposed lot 3, making it impractical and to extend a road through the subdivision to serve one lot.

The proposed subdivision and lot configuration are in conformance with the applicable zoning and subdivision requirements as required in the Uniform Land Use Code of Weber County (LUC). The following is a brief synopsis of the review criteria and conformance with the LUC.

Analysis

General Plan: The General Plan for Ogden Valley is intended to preserve private property rights while also preserving the rural characteristics of the Valley. Both requests are in conformance with the General Plan.

Zoning: The subject property is located in the Agricultural Valley (AV-3) zone. Single-family dwellings are a permitted use in the AV-3 zone.

Lot area, frontage/width and yard regulations: In the LUC §104-6-6, the AV-3 zone requires a minimum lot area of 3 acres and a minimum lot width of 150'. All lots within the proposed subdivision have an area of at least 3 acres and Lots 1 and 2 maintain the 150' width requirement. Lot 3 is proposed to gain access from 500 South by a

private right of way. The proposed private right of way will be 25' wide, 257' long, and will need to meet the design standards in LUC §108-7-29 as outlined below:

Design standards.

- a. *The private right-of-way/ access easement shall be designed and built to a standard approved by the county engineer. The improved road surface does not require hard-surface paving, i.e., concrete or asphalt, but the improvements shall meet the following standards.*
- b. *The A private right-of-way /access easement shall have a minimum width of 16 feet and a maximum width of 50 feet. The private right-of-way and access easement width standards may be modified by the Weber Fire District in conjunction with the county engineer on a case-by-case basis.*
- c. *The improved travel surface of the private right-of-way /access easement shall be a minimum of 12 feet wide if the access serves fewer than five dwellings, and a minimum of 20 feet wide if the access serves five or more dwellings.*
- d. *The improved road surface of the private right-of-way /access easement shall be capable of supporting a minimum weight of 75,000 pounds.*
- e. *A turnout measuring at least ten feet by 40 feet shall be provided adjacent to the traveled surface of the a private right-of-way/ access easement (private access) if the private access is greater than 200 feet in length. The turnout shall be located at the approximate midpoint of the private access if its length is between 200 and 800 feet. If the private access length is greater than 800 feet, turnouts shall be provided at least every 400 feet thereafter. These standards may be modified by the Weber Fire District in conjunction with the county engineer on a case-by-case basis.*
- f. *The private right-of-way/ access easement shall have a maximum grade of ten percent. This standard may be modified by the Weber Fire District in conjunction with the county engineer on a case-by-case basis; however, the maximum grade shall not exceed 15 percent.*
- g. *The private right-of-way/ access easement shall have a minimum vertical clearance of 14.5 feet.*
- h. *No buildings, structures, or parking areas are allowed within the private right-of-way, or access easement.*
- i. *New bridges, including decking and culverts shall be capable of supporting a minimum weight of 75,000 pounds. For existing bridges, a current certified engineer statement of load bearing capabilities must be submitted to the county engineer and the Weber Fire District for review.*
- j. *The private right-of-way/ access easement shall have a minimum inside travel-way radius of 26 feet, outside travel-way radius of 45 feet, and outside clear zone radius of 50 feet on all curves, particularly switchbacks. The width of the access may need to be increased to accommodate these standards.*
- k. *Water and sewer lines located within the private right-of-way/access easement require written notification from the agencies providing such services.*

A condition of approval has been included to ensure the private right of way design standards are met.

As part of the subdivision process, the proposal has been reviewed for compliance with the current subdivision ordinance in LUC §106-1, and the AV-3 zone standards in LUC §104-6-6. The proposed subdivision will not create any new public streets. The proposal meets the criteria for "Small Subdivisions", as defined in LUC §101-7, and can be administratively approved per LUC §106-1-5(b)(1).

Culinary water and sanitary sewage disposal: Feasibility letters have been provided for the culinary water and the sanitary sewer for the proposed subdivision. The culinary water for the proposed subdivision will be provided by a private well. The sanitary sewage disposal will be an individual waste water treatment system. All review agency requirements must be addressed and completed prior to this subdivision being recorded.

Review Agencies: To date, the proposed subdivision has been reviewed by the Engineering Division, Weber Fire District, and the Surveyor's Office. The applicant will need to submit a revised plat with all agencies conditions met prior to recording the final Mylar

Additional Design Standards:

According to LUC §108-7-31, approval of a request for alternative access is subject to the applicant demonstrating compliance with the following criteria and conditions:

(1) Criteria.

- a. *The lot/parcel is a bona fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or*

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

(2) Conditions.

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

The applicant has stated on the alternative access application that, due to the irrigation pond located on lot 3, it would be impractical to extend a road through the subdivision. The applicant has also stated that if 150' of frontage were given to lot 3, the lot would be very narrow and would limit the area where a home could be placed.

Tax Clearance: There are no outstanding tax payments related to this parcel.

Public Notice: A notice has been mailed not less than seven calendar days before final approval to all property owners of record within 500 feet of the subject property regarding the proposed small subdivision per noticing requirements outlined in LUC §106-1-6(b).

Staff Recommendations

Staff recommends final approval of Benstog Subdivision, consisting of three lots and a private right of way access to Lot 3. This recommendation is subject to all review agency requirements and based on the following conditions:

1. The private right of way design standards must be met as outlined in LUC §108-7-29.
2. A covenant to run with the land, concerning provisions of irrigation water, will be required to be recorded in conjunction with the final Mylar.
3. A covenant to run with the land concerning onsite wastewater disposal systems will be required to be recorded in conjunction with the final Mylar.
4. A covenant to run with the land concerning alternative access requirements, as outlined in LUC §108-7-31, will be required to be recorded in conjunction with the final Mylar.
5. A deferral agreement for curb, gutter, and sidewalk will be required as outlined in LUC §106-4-2 (e) and (f).
6. One of the existing homes shown on Lot 1 must be labeled as an accessory structure prior to recording the final Mylar.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with applicable county ordinances.

Administrative Approval

Administrative final approval of Benstog Subdivision, consisting of three lots and a private right of way access is hereby granted based upon its compliance with the Weber County Land Use Code. This approval is subject to the requirements of applicable review agencies and the conditions of approval listed in this staff report.

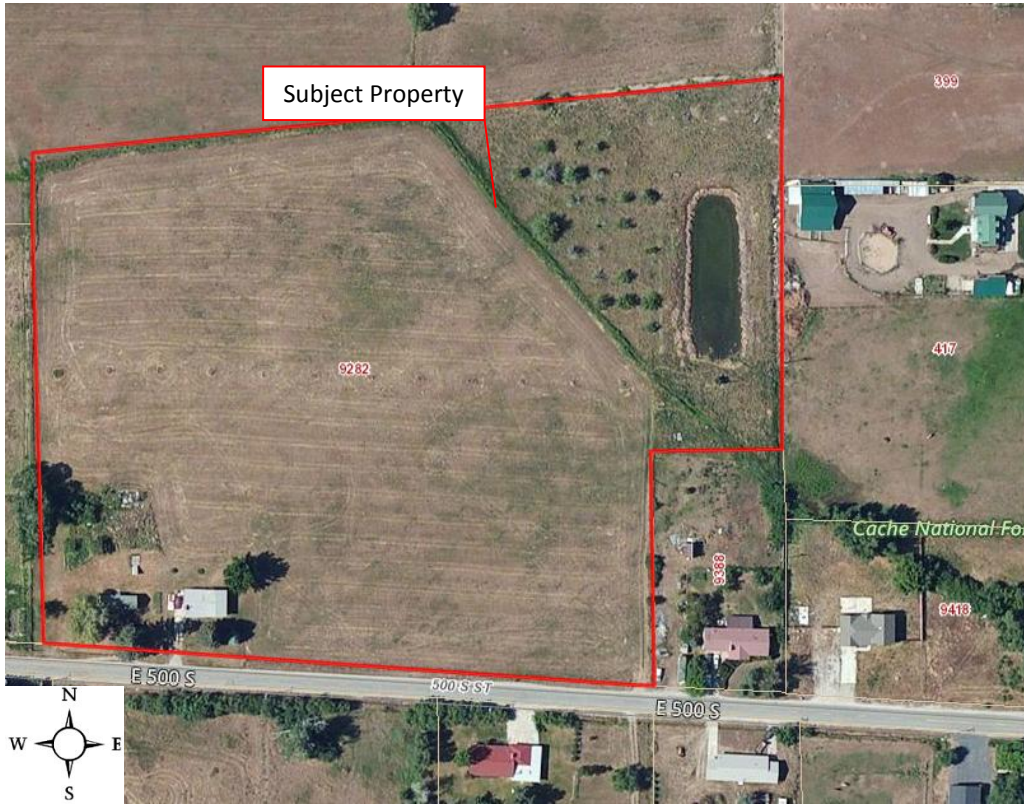
Date of Administrative Approval: Friday, June 2, 2017.

Rick Grover
Weber County Planning Director

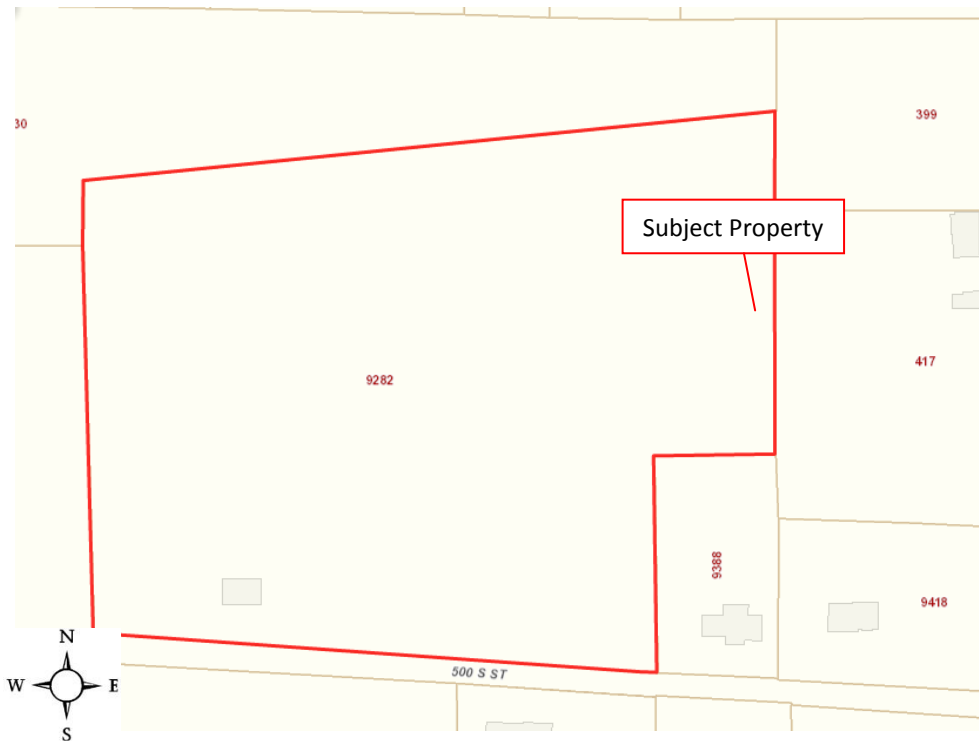
Exhibits

- A. Plat Map
- B. Alternative Access Application

Area Map 1



Area Map 2



**BENSTOG SUBDIVISION
OGDEN VALLEY, WEBER COUNTY, UTAH**

LYING AND SITUATE IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN
SURVEY PERFORMED: JUNE 2016

AGRICULTURE IS THE PREFERRED USE IN THE AGRICULTURAL ZONES. AGRICULTURAL OPERATIONS AS SPECIFIED IN THE LAND USE CODE FOR A PARTICULAR ZONE ARE PERMITTED AT ANYTIME INCLUDING THE OPERATION OF FARM MACHINERY AND NO AGRICULTURAL USE SHALL BE SUBJECT TO RESTRICTIONS ON THE BASIS THAT IT INTERFERES WITH ACTIVITIES OF FUTURE RESIDENTS OF THE SUBDIVISION (MCO Ord. 106-1-8(2)(5))

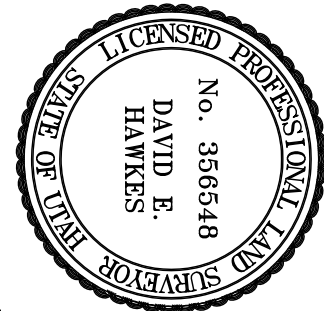
SURVEYORS CERTIFICATE

I, David E. Hawkes, certify that I am a Professional Land Surveyor holding license number 356548, State of Utah, and that I have personally supervised the survey and preparation of this plat. I have personally checked the accuracy of the survey and the correctness of the computations. The survey was performed in accordance with the Utah Surveying Act and the rules and regulations of the Board of Professional Land Surveyors. The survey was performed on the day of the month of the year 2017. The survey was performed in accordance with the Utah Surveying Act and the rules and regulations of the Board of Professional Land Surveyors. The survey was performed in accordance with the Utah Surveying Act and the rules and regulations of the Board of Professional Land Surveyors.

BOUNDARY DESCRIPTION

A parcel of land lying and situate in the Southeast Quarter of section 16, Township 6 North, Range 2 East, Salt Lake Base and Meridian. Comprising the remaining 12.24 acres of Lot 16 of said Section 16, a "School Section" subdivided by that certain survey certified by H.J. Brown, November 30, 1899, approved by the Secretary State Board of Land Commissioners, November 8, 1909 and filed with the Weber County Clerk's Office on November 18, 1899, and amended by that certain survey certified by David E. Hawkes, P.L.S. and filed with the Weber County Surveyor, Basis of Bearing for subject parcel being North 89°26'11" West 5205.05 feet between the Weber County brass cap monuments monumentizing the north line of the south half of said Section 16. Subject parcel being more particularly described as follows:

Commencing at the East Quarter Corner of said Section 16, thence North 89°26'11" West 731.75 feet coincident with the north line of the Southeast Quarter of said Section 16 to the Northeast Corner of Lot 17, of said Section 16; thence South 00°28'59" East 111.60 feet along an ancient fence line and coincident with the east line of said Lot 17 to a monumentizing the northeast corner of said Lot 17, a "True Point of Beginning"; thence North 89°26'11" West 731.75 feet to the Northeast Corner of said Lot 16; thence South 00°28'59" East 451.89 feet coincident with the east line of said Lot 16, along an ancient fence line to a number 5 rebar and yellow plastic cap stamped "PLS 356548" set in an ancient fence corner. Thence the following two (2) courses along an ancient fence line which is a "Boundary by Acquiescence": 1) North 84°43'49" West 148.88 feet to a number 5 rebar and yellow plastic cap stamped "PLS 356548"; 2) South 00°46'15" West 290.53 feet through a number 3 rebar and yellow plastic cap stamp "PLS 356548" set in the southwest corner of said Lot 16; thence North 00°22'49" West 584.76 feet through a number 5 rebar and yellow plastic cap stamped "PLS 356548" set at the intersection of the 33.00 foot right of way line of 500 South Street, and coincident with the west line of said Lot 16 to a number 5 rebar and yellow plastic cap stamped "PLS 356548" set in an ancient fence corner monumentizing the northwest corner of said Lot 16; thence North 83°11'40" East 877.35 feet coincident with the north line of said Lot 16 to the Point of Beginning.



OWNERS DEDICATION

Known all men by these presents that we, the undersigned owners of the above described tract of land having caused the same to be subdivided into three lots, a public street, and a private right of way, as shown on this plat and name said tract, **BENSTOG SUBDIVISION**, and hereby dedicate, grant and convey to Weber County, Utah, all those parts or portions of said tract of land designated as public street, whether the same be used as public thoroughfare, for, and also for drainage purposes as shown hereon. We also hereby dedicate that certain private roadway for ingress and egress purposes for Lot 3, their guests and/or invitees, the same to be used for the installation, maintenance and operation of public utility service lines and drainage as may be authorized by the governing authority in witness we have hereunto set our signature.

Signed this _____ day of _____, 2017.

Patrick Benstog
Paul Benstog
Lola Benstog
John Benstog

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
COUNTY OF WEBER }

On the _____ day of _____, 2017, personally appeared before me, the undersigned Notary, in and for said County of Weber, in said State of Utah, the signers of the above Owner's Dedication, four (4) in number, who duly acknowledged to me that they signed it freely and voluntarily for the purposes therein mentioned.

WEBER MORGAN HEALTH DEPARTMENT

I hereby certify that the soils, percolation rates and site conditions for the proposed septic system shown on this plat meet the minimum standards set forth in the Utah Health Code and are approved for an on-site waste water system.

This _____ day of _____, 20____.

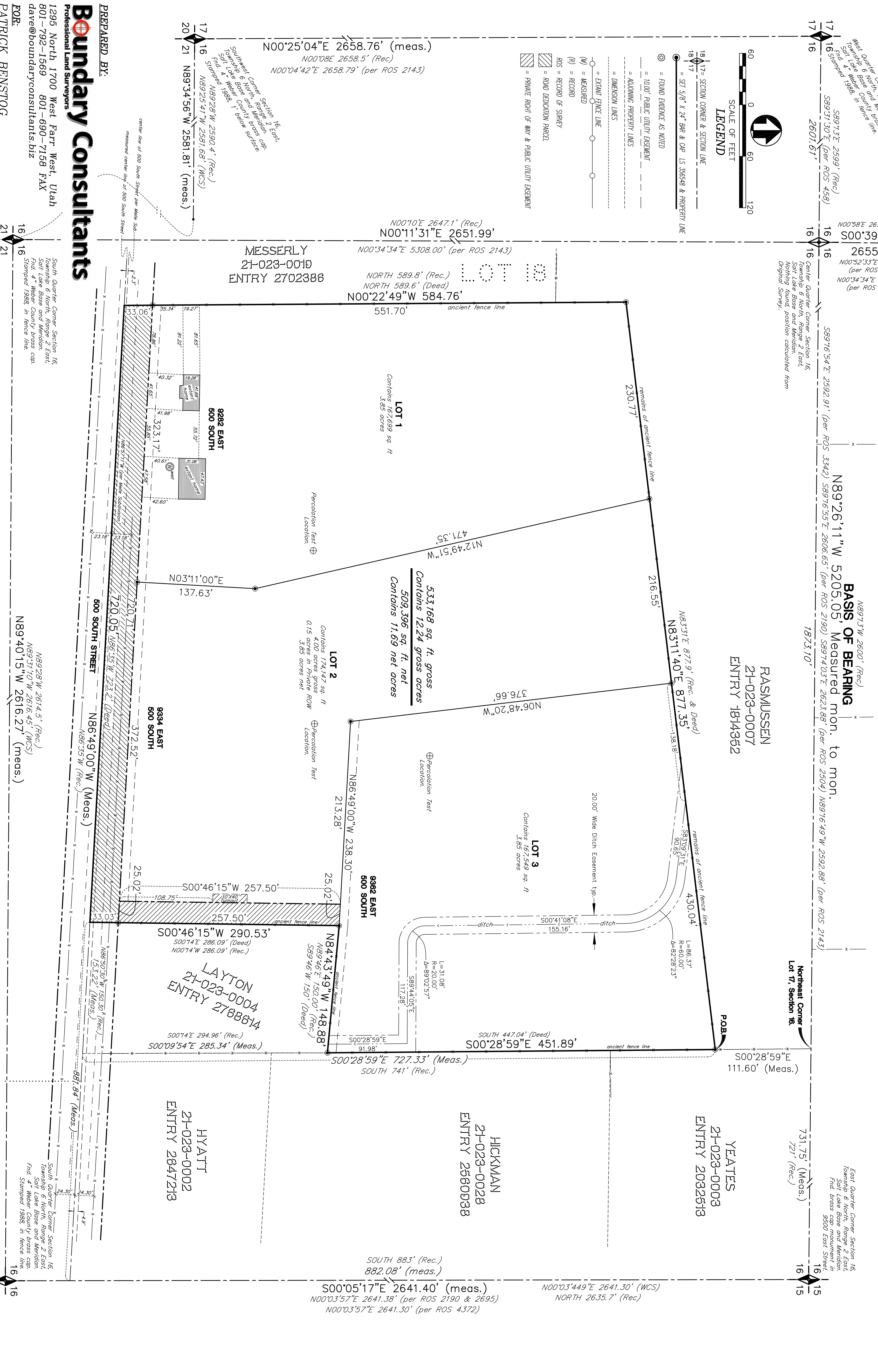
Director, Weber Morgan Health Department

WEBER COUNTY RECORDER

ENTRY NUMBER _____

FEE PAID _____ FILED FOR RECORD AND RECORDED THIS _____ DAY OF _____, 2017, IN BOOK _____ AT PAGE _____ OF THE OFFICIAL RECORDS.

DEPUTY COUNTY RECORDER _____



PREPARED BY:
Boundary Consultants
Professional Land Surveyors
1295 North 1700 West, Farr West, Utah
801-792-1569 801-690-7158 FAX
dave@boundaryconsultants.biz

PATRICK BENSTOG
1460 Pleasant View Drive
Pleasant View, Utah 84414
801-391-7495

WEBER COUNTY ATTORNEY

I have examined the financial guarantee and other documents associated with this subdivision plat and in my opinion they conform with the County Ordinance applicable thereto and now in force and effect.

Signed this _____ day of _____, 20____.

Signature _____

COUNTY SURVEYOR'S CERTIFICATE

I hereby certify that the Weber County Surveyor has reviewed this plat for mathematical correctness, section corner data, and for harmony with lines and monuments on record in County offices. The approval of this plat by the Weber County Surveyor does not relieve the Licensed Land Surveyor who execute this plat from the responsibilities and/or liabilities associated therewith.

Signed this _____ day of _____, 20____.

Signature _____

WEBER COUNTY ENGINEER

I hereby certify that the required public improvement standards and drawings for this subdivision conform with County standards and the amount of the financial guarantee is sufficient for the installation of these improvements.

Signed this _____ day of _____, 20____.

Signature _____

WEBER COUNTY PLANNING COMMISSION APPROVAL

This is to certify that this subdivision plat was duly approved by the Weber County Planning Commission on the _____ day of _____, 20____.

Chairman, Weber County Planning Commission _____

WEBER COUNTY COMMISSION ACCEPTANCE

This is to certify that this subdivision plat, the dedication of streets and easements associated with this subdivision, have been approved and accepted by the Commissioners of Weber County, Utah on the _____ day of _____, 20____.

Chairman, Weber County Commission _____

Weber County Alternative Access Application

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

Date Submitted /Completed 3/10/17	Application Fee: \$225.00	Receipt Number (Office Use)	File Number (Office Use)
Application Type			
<input checked="" type="checkbox"/> Flag lot access strip <input checked="" type="checkbox"/> Access by Private Right of Way <input type="checkbox"/> Access at a location other than across the front lot line			
Property Owner Contact Information			
Name of Property Owner(s) PATRIK, PAUL, JOHN, LISA BENSTON		Mailing Address of Property Owner(s) PLEASANT VIEW, 84116	
Phone 801-391-7495	Fax	1440 W. PLEASANTVIEW DR	
Email Address (required) PAT@LEUSTONCONSTRUCTION.COM		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) PATRIK BENSTON		Mailing Address of Authorized Person SAME	
Phone 801-391-7495	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required) PAT@LEUSTONCONSTRUCTION.COM			
Property Information			
Project Name BENSTON SUBDIVISION		Total Acreage 12.24 AC	Current Zoning AV 3
Approximate Address 500 So 9262 E		Land Serial Number(s)	
Proposed Use ACCESS TO LOT IN SUBDIVISION			
Project Narrative <p>IT CAN BE SHOWN THAT IT WOULD BE IMPRACTICAL TO EXTEND THE ROAD. THE LOT HAS AN IRRIGATION POND AND IF THE 150' FRONTAGE REQUIREMENT WERE APPLIED, IT WOULD NARROW THE LOT SO THAT IT WOULD BE IMPRACTICAL FOR A HOME TO FIT ON REMAINING AREA.</p>			