



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 30-foot variance to the 50’ natural ephemeral stream corridor setback.

Agenda Date: Thursday, July 09, 2020

Applicant: David Anhder (Applicant), Larkin Revocable Trust (Owner)

File Number: BOA 2020-05

Property Information

Approximate Address: 840 N Yacht Club Dr., Eden, UT

Project Area: 1.57 acres

Zoning: Forest Valley (FV-3)

Existing Land Use: Vacant Developable Lot

Proposed Land Use: Residential

Parcel ID: 20-058-0003

Township, Range, Section: T6N, R1E, Section 10, NE

Adjacent Land Use

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

Staff Information

Report Presenter: Scott Perkes
 sperkes@co.weber.ut.us
 801-399-8772

Report Reviewer: SB

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 5 (Forest Valley 3 Zone)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands) Section 2 (Stream Corridors, Wetlands, and Shorelines)

Development History

On June 6, 1994, the Radford Hills Subdivision No.2B plat was recorded. The subject property of this application is depicted as lot 21 of this subdivision (see **Exhibit B**).

On December 5, 2005, the Board of County Commissioners adopted Ordinance 2005-19, which established river and stream corridor setback requirements (see **Exhibit E**).

This request to the Board of Adjustment was submitted on June 8, 2020 (see **Exhibit A**).

Background and Project Summary

The applicant is requesting a 30-foot variance to the required 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home and potential accessory structures on the lot. The unique circumstance on this property is a seasonal/intermittent stream running through the lot, shown within a 20-foot wide drainage easement on the Radford Hills No. 2B subdivision plat.

The Land Use Code (Sec. 104-28-2(b)(1)), states the following regarding ephemeral stream corridor setbacks:

No structure, accessory structure, road, or parking area shall be built within the required setback from a river or stream as measured from the high water mark of the river or stream. The high water mark shall be determined by the Weber County engineer. The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native vegetation and wildlife along the river or stream...

C. Structures, accessory structures, roads, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.

This section of code was first implemented in 2005 through the adoption of Ordinance 2005-19. For reference, the Radford Hills Subdivision No. 2B was recorded in 1994. As such, this subdivision was originally designed to allow adequate width for residential building footprints and did not contemplate additional setback requirements beyond the depicted drainage easement. Only one other lot in the subdivision (lot 28) is affected by the stream. The home on lot 28 was built in 1996 prior to the implementation of the required ephemeral stream setback. Lot 28 is also wider than most lots in the subdivision. Lot 21 is similar in width to most other lots in the subdivision (with the exception of lot 28), but is the only other lot encumbered by the stream.

Should this variance request be granted, the resulting setback would exceed the existing 10-foot from centerline drainage easement by leaving a 20-foot setback from the high water mark.

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. In order for a variance to be granted it must be shown that all of the following criteria have been met:

- a. *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 1. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
 2. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice done.*

Listed below is staff's analysis:

- a. Literal enforcement of the 50-foot ephemeral stream setback would limit the placement of a single-family detached home on the lot.
- b. The special circumstance that exists on the property is the location of the seasonal stream and its required 50 ft. setback from high water marks. As mentioned above, this setback requirement was adopted 11 years following the recording of the associated Radford Hills No. 2b subdivision. As such, the lot was not designed during subdivision to accommodate additional setbacks to the ephemeral stream. The stream's 50-foot setbacks from high water marks, coupled with the required structural setbacks of the FV-3 zone, significantly reduces the lot's developable width (see **Exhibit C**). Thereby limiting the placement of a single-family home as compared to the placement of homes on other residential lots in the subdivision.
- c. Granting the variance would allow the owner of the parcel to build a single-family home in a location on the lot that would be similar to adjacent residences and other single-family lots found in the FV-3 zone.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and future residential development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. The applicant has gone through the proper channels in applying for a variance. The proposal still observes the 20 ft. drainage easement, as was originally required at the time of subdivision.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FV-3 Zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Staff Recommendation

Based on the findings presented in the analysis listed above, staff recommends approval of a 30-foot variance to the 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home on property located at 840 N Yacht Club Dr. in Eden.

Exhibits

- A. Variance Application & Narrative
- B. Radford Hills No. 2B Dedication plat
- C. Site Plan Showing Setbacks
- D. Ogden Valley Sensitive Lands - Stream Corridor Map
- E. Ordinance 2005-19 (Excerpt)

Area Map



Exhibit A: Variance Application & Narrative

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>6/8/2020</i>	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
Property Owner Contact Information			
Name of Property Owner(s) Larkin Revocable Trust, LaRea Larkin, trustee		Mailing Address of Property Owner(s) PO Box 962 Eden, UT 84310	
Phone 801-245-3260	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address mtnphotoeden@gmail.com			
Authorized Representative Contact Information			
Name of Person Authorized to Represent the Property Owner(s) David Anhder		Mailing Address of Authorized Person 2232 N. 525 E. North Ogden, UT 84414	
Phone 801-243-1453	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address david@davidanhder.com			
Appeal Request			
<input checked="" type="checkbox"/> A variance request: <u> </u> Lot area <u> </u> Yard setback <u> </u> Frontage width <input checked="" type="checkbox"/> Other: <u>Drainage easement/setback</u>			
<input type="checkbox"/> An Interpretation of the Zoning Ordinance <input type="checkbox"/> An Interpretation of the Zoning Map <input type="checkbox"/> 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 <input type="checkbox"/> Other: _____			
Property Information			
Approximate Address 840 N Yacht Club Drive Eden, UT 84310		Land Serial Number(s) 200580003	
Current Zoning FV-3			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 1.57 AC	Lot Frontage/Width 201.60 feet	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 30 feet	Rear Yard Setback 20 feet	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 20 feet	Side Yard Setback 20 feet	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

This request is to ask for a 30 foot variance to the 50 foot setback from the high water mark of the seasonal stream on the Northern portion of the lot.

Thus the requested setback would be 20'(feet) from each side of the stream instead of 50 feet. The easement will not change.

See Attachment A

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 Attachment A

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 Attachment A

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

See Attachment A



Variance Request (continued...)

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

See Attachment A

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

See Attachment A

Property Owner Affidavit

I (We), Larae Larkin, 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.

Larae Larkin (Property Owner) _____ (Property Owner) _____

Subscribed and sworn to me this 8 day of June, 2020.



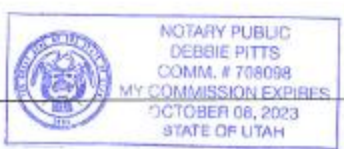
Debbie Pitts (Notary)

Authorized Representative Affidavit

I (We), Larae Larkin, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), David Anholder, 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.

Larae Larkin (Property Owner) _____ (Property Owner) _____

Dated this 8 day of June, 2020, personally appeared before me _____ the signers) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



Debbie Pitts (Notary)

"A Hachman A"

Weber County Board of Adjustment Application

Applicant Narrative

Radford Hill NO 2B plat map (dated May 1994) shows a drainage easement, +/- 10 on each side of the drain, from the West to East borders of the lot commencing 70 feet South from the NW corner. The new ~~code~~ ^{setback} requires the distance from the drain to be +/- 50 feet. This request is to keep the drainage easement requirement as the subdivision was originally platted and approved, with a +/-10 foot easement, *and only change the setback.*

Variance Request

1. Enforcement of the new, 50 foot requirement would leave only 61 feet of buildable width within 60 feet of the frontage of the lot. This would severely limit the construction of a home similar to ones in the subdivision and make this building lot much less practical.
2. The drainage easement is located only on lots 21 and 28 (this lot borders on the East side). The easement is the result of a drainage culvert under N. Yacht Club Drive that empties onto lot 21, 70 feet from the NW corner of that lot. It flows down (East) through lot 28 before it eventually empties into Pineview reservoir.
3. The new +/-50 foot easement would severely reduce the buildable width of the lot compared to the other lot in the area. The only other lot (28) with this drainage easement is wider and already has a home on it.
4. The variance will not affect the general plan of the area as the request is to keep the easement as originally platted and approved.
5. It is assumed that the spirit of the change in easement width was to protect the drainage runoff from impacts due to building close to it. This spirit will be maintained as the drainage easement will be maintained as it was originally established. It is the intent of the owner(s) to maintain as much distance from the drainage as possible.

*Seasonal stream - Setback 50'
easement 10'*

Exhibit B: Radford Hills Subdivision No. 2B - Dedication Plat

RADFORD HILLS NO. 2B

PART OF THE EAST HALF OF SECTION 10, T. 6 N., R. 1 E., S. L. B. & M. WEBER COUNTY, UTAH

MAY 1994

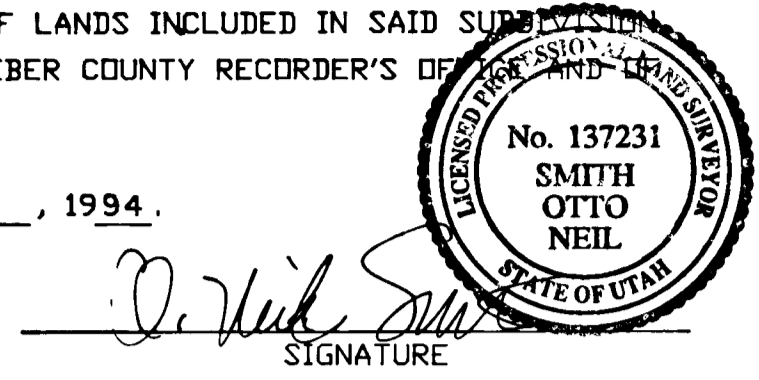
SCALE 1" = 100'

SURVEYOR'S CERTIFICATE

I, D. NEIL SMITH, A REGISTERED LAND SURVEYOR IN THE STATE OF UTAH, DO HEREBY CERTIFY THAT THIS PLAT OF RADFORD HILLS NO. 2B IN WEBER COUNTY UTAH HAS BEEN CORRECTLY DRAWN TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE FOLLOWING DESCRIPTION OF LANDS INCLUDED IN SAID SUBDIVISION BASED ON DATA COMPILED FROM RECORDS IN THE WEBER COUNTY RECORDER'S OFFICE AND A SURVEY MADE ON THE GROUND.

SIGNED THIS 4TH DAY OF MARCH, 1994.

137231 LICENSE NO.



OWNER'S DEDICATION

WE, THE UNDERSIGNED OWNERS OF THE HEREDIN DESCRIBED TRACT OF LAND, HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND STREETS AS SHOWN ON THIS PLAT AND NAME SAID TRACT RADFORD HILLS NO. 2B AND HEREBY DEDICATE, GRANT AND CONVEY TO WEBER COUNTY, UTAH ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS STREETS, THE SAME TO BE USED AS PUBLIC THOROUGHFARES FOREVER, AND ALSO DEDICATE TO WEBER COUNTY THOSE STRIPS AS EASEMENTS FOR PUBLIC UTILITY AND DRAINAGE PURPOSES AS SHOWN HEREON, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES AND DRAINAGE AS MAY BE AUTHORIZED BY WEBER COUNTY, SUCH DEDICATION SUBJECT TO ALL EXISTING EASEMENTS ON RECORD.

SIGNED THIS 30th DAY OF March, 1994.

RADFORD HILLS CORPORATION - A UTAH CORPORATION

Edward E. Radford, EDWARD E. RADFORD - PRESIDENT

BOUNDARY DESCRIPTION

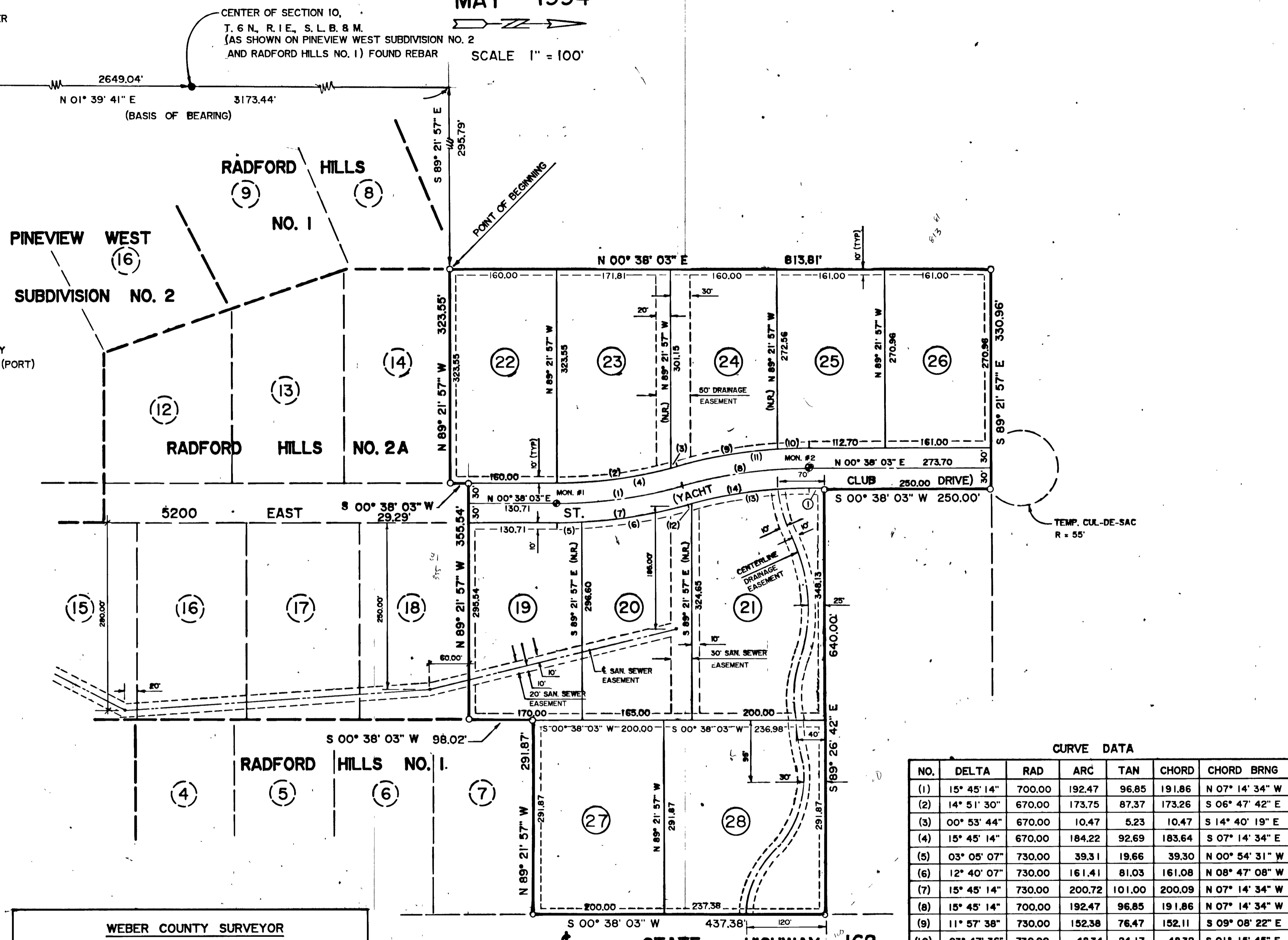
PART OF THE EAST HALF OF SECTION 10, T. 6 N., R. 1 E., S. L. B. & M.

BEGINNING AT THE NORTHWEST CORNER OF LOT 14, RADFORD HILLS NO. 2A, WHICH IS LOCATED N 01° 39' 41" E 3173.44 FEET AND S 89° 21' 57" E 295.79 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 10, T. 6 N., R. 1 E., S. L. B. & M., RUNNING THENCE N 00° 38' 03" E 813.81 FEET, THENCE S 89° 21' 57" E 330.96 FEET TO THE NORTHWEST CORNER OF THE BEVERLY F. PAULSON PROPERTY, THENCE S 00° 38' 03" W 250.00 FEET TO THE SOUTHWEST CORNER OF THE MILTON C. MECHAM PROPERTY, THENCE S 89° 26' 42" E 640.00 FEET TO THE NORTHEAST CORNER OF LLOYD YEATON PROPERTY AND THE WEST RIGHT OF WAY LINE OF THE STATE HIGHWAY, THENCE S 00° 38' 03" W 437.38 FEET ALONG SAID RIGHT OF WAY LINE TO THE NORTHEAST CORNER OF RADFORD HILLS NO. 1, THENCE ALONG THE BOUNDARY LINES OF RADFORD HILLS SUBDIVISIONS THE FOLLOWING FIVE COURSES: N 89° 21' 57" W 291.87 FEET, S 00° 38' 03" W 98.02 FEET, N 89° 21' 57" W 355.54 FEET, S 00° 38' 03" W 29.29 FEET, N 89° 21' 57" W 323.55 FEET TO THE POINT OF BEGINNING.

CONTAINS 13.381 ACRES.

Table with 3 columns: LOT, AREA (S.F.), ADDRESS. Lists lots 19 through 28 with their respective areas and addresses.

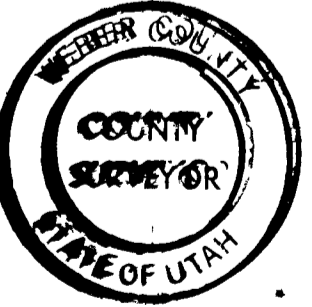
Table with 3 columns: LOT NO., BEARING, DIST. Lists lot 21 with bearing S 00° 38' 03" W and distance 23.70.



CURVE DATA table with columns: NO., DELTA, RAD, ARC, TAN, CHORD, CHORD BRNG. Lists curve data for lots 11 through 14.

- NOTES: 1 - 10.00 FOOT UTILITY AND DRAINAGE EASEMENTS... 2 - (N.R.) - NON-RADIAL... 3 - SURVEY CONTROL MONUMENT (S)... 4 - 5/8" REBAR WITH CAP STAMPED "ONESCO INC."...

WEBER COUNTY SURVEYOR. I HEREBY CERTIFY THAT I HAVE INVESTIGATED THE LINE OF SURVEY OF THE FOREGOING PLAT AND LEGAL DESCRIPTION OF THE LAND EMBRACED THEREIN, AND FIND THEM TO BE CORRECT AND TO AGREE WITH THE LINES AND MONUMENTS ON RECORD IN THIS OFFICE. SIGNED THIS 4TH DAY OF May, 1994.



WEBER COUNTY PLANNING COMMISSION. APPROVED BY THE WEBER COUNTY PLANNING COMMISSION ON THE 5TH DAY OF MAY, 1994.

WEBER COUNTY APPROVAL. THIS IS TO CERTIFY THAT THIS PLAT AND DEDICATION OF THIS PLAT WERE DULY APPROVED AND ACCEPTED BY WEBER COUNTY, UTAH THIS 13th DAY OF June, 1994.

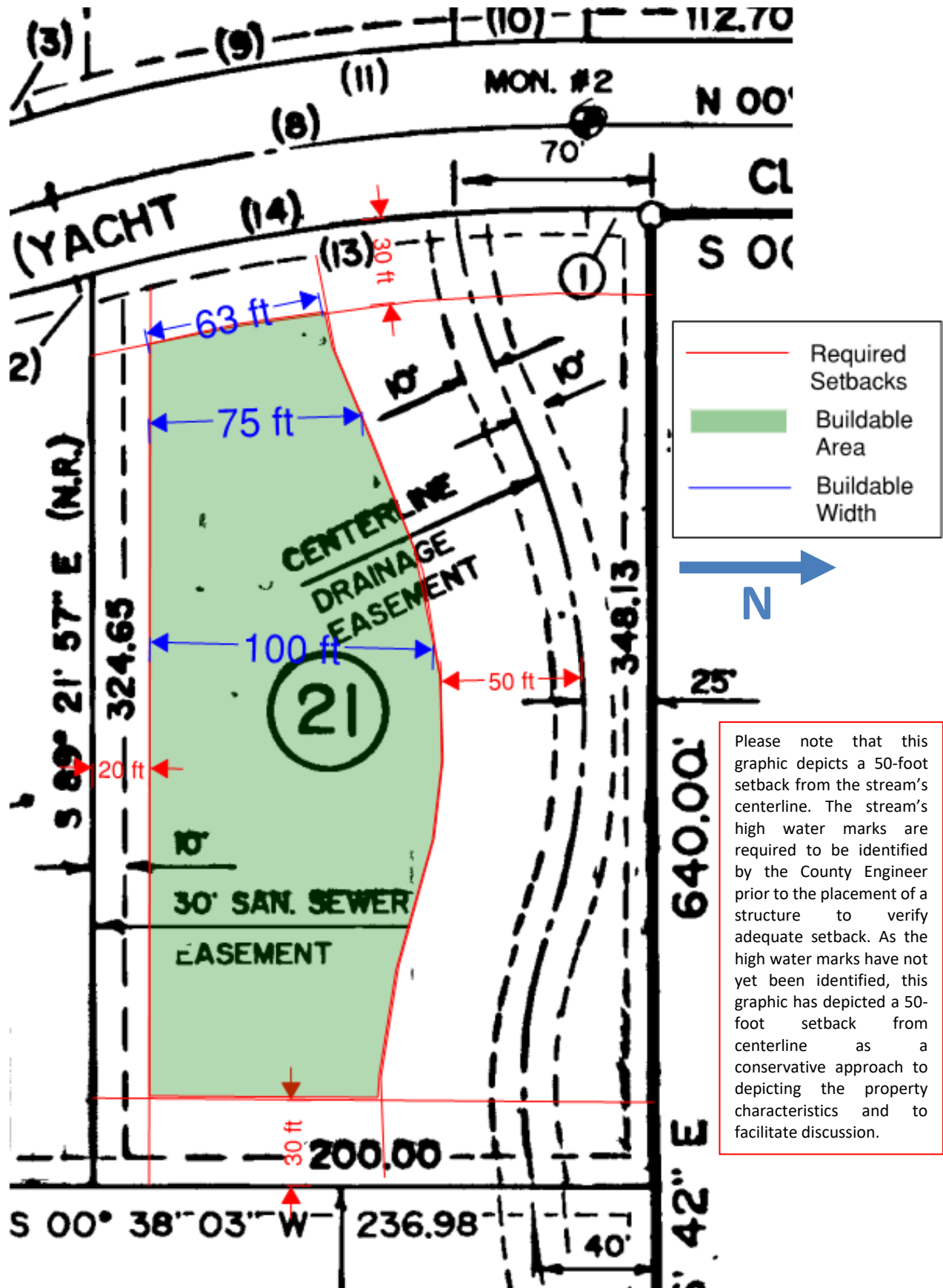
WEBER COUNTY ENGINEER. I HEREBY CERTIFY THAT I APPROVE THE REQUIRED IMPROVEMENT STANDARDS AND DRAWINGS FOR THIS SUBDIVISION AND THE AMOUNT OF FINANCIAL GUARANTEE FOR THESE IMPROVEMENTS. SIGNED THIS 4th DAY OF May, 1994.

WEBER COUNTY ATTORNEY. I HAVE EXAMINED THE SUBDIVISION DOCUMENTS SUBMITTED WITH THIS PLAT AND FIND THEY ARE IN CONFORMANCE WITH THE ORDINANCE REQUIREMENTS NOW IN FORCE AND EFFECT. SIGNED THIS 4th DAY OF May, 1994.

CORPORATE ACKNOWLEDGEMENT. STATE OF UTAH COUNTY OF WEBER. ON THE 30th DAY OF March, 1994 PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID STATE AND COUNTY Edward E. Radford AND AFTER BEING DULY SWORN ACKNOWLEDGED TO ME HE IS/PRESIDENT OF SAID CORPORATION AND THAT HE SIGNED THE OWNER'S DEDICATION FREELY, VOLUNTARILY AND IN BEHALF OF SAID CORPORATION AND FOR THE PURPOSES THEREIN MENTIONED. MY COMMISSION EXPIRES NOVEMBER 30, 1996.

COUNTY RECORDER. ENTRY NO. 1295405. ENTRY NO. 1295405. FILED FOR RECORD AND RECORDED JUNE 16, 1994, AT 11:42 A.M. IN BOOK 38 OF OFFICIAL RECORDS, PAGE 16, FOR EDWARD E. RADFORD. Doug Crofts, COUNTY RECORDER. Kayla Baumann, DEPUTY.

Exhibit C: Site Plan Showing Setbacks



Please note that this graphic depicts a 50-foot setback from the stream's centerline. The stream's high water marks are required to be identified by the County Engineer prior to the placement of a structure to verify adequate setback. As the high water marks have not yet been identified, this graphic has depicted a 50-foot setback from centerline as a conservative approach to depicting the property characteristics and to facilitate discussion.

Exhibit D: Ogden Valley Sensitive Lands – Stream Corridor Map

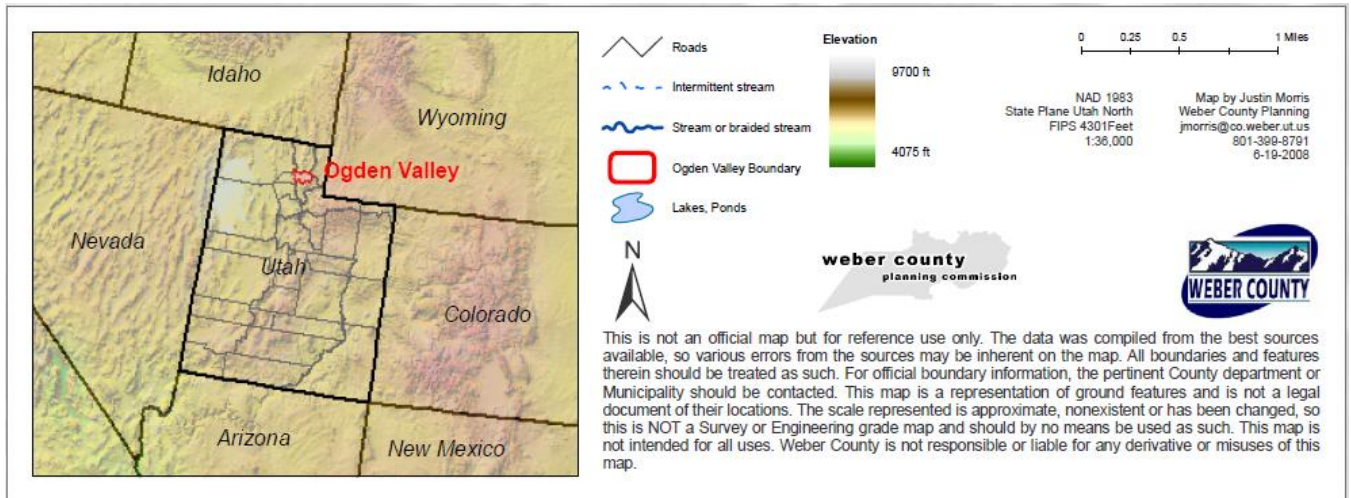


Exhibit E: Ordinance 2005-19 (Excerpt)

Summary of Ordinance No. 2005-19

An Ordinance of Weber County, amending the zoning ordinance by adding Section 23-37 River and Stream Corridors. The new section places setback requirements for building adjacent to year-round and ephemeral streams, with the exception of a segment of the Ogden River below Pineview Reservoir. Was adopted and ordered published the 20th day of December 2005, by the Board of County Commissioners of Weber County, Utah, with Commissioners Bischoff, Cain and Dearden voting aye.

A copy of the complete ordinance is available for public inspection at the office of the Weber County Clerk/Auditor, 2380 Washington Blvd, Suite 320 Ogden, Utah.

Ordinance No. 2005-19

An Ordinance of Weber County, amending Chapter 23 of the Zoning Ordinance by adding Section 23-37, River and Stream Corridor Setbacks.

WHEREAS, Weber County finds that river and stream corridors provide important aesthetic ecological and recreational resources, including wildlife habitat, and the protection of water quality in the County's rivers and streams; and

WHEREAS, these resources are put at risk of being lost or significantly impaired due to land development activities within river and stream corridors; and

WHEREAS, the need to protect river and stream corridors is identified in both the Ogden Valley and West Central Weber County General Plans.

NOW THEREFORE, The Board of County Commissioners of Weber County, State of Utah, Ordain as follows:

The Uniform Zoning Ordinance of Unincorporated Weber County is hereby amended by adding Section 23-37, River and Stream Corridor Setbacks:

CHAPTER 23

SUPPLEMENTARY AND QUALIFYING

- 23-1. Effect of Chapter
- 23-2. Lots in Separate Ownership
- 23-3. Yard Space for One Building Only
- 23-4. Every Dwelling to be on a "Lot"
- 23-5. Separately Owned Lots - Reduced Yards
- 23-6. Sale or Lease of Required Space
- 23-7. Creation of Lots Below Minimum Space Requirements
- 23-8. Yards to be Unobstructed - Projections Permitted into Required Yards
- 23-9. Wall, Fence, or Hedge May be Maintained
- 23-10. Area of Accessory Building
- 23-11. Deleted Section - 2002-9
- 23-12. Exceptions to Height Limitations
- 23-13. Minimum Height of Main Building
- 23-14. Deleted Section - 2002-9
- 23-15. Clear View of Intersecting Streets
- 23-16. Animals and Fowl
- 23-17. Water and Sewage Requirements
- 23-18. Effect of Official Map
- 23-19. Signs and Lighting
- 23-20. Lots and Dwellings on Private Rights-of-Way, Special Provisions

23-21.	Required Building Setb. from Designated Collector or Arterial Street	
23-22.	Group Dwelling Special Regulations	
23-23.	Zero Side Yards	
23-24.	Dish Antennas	
23-25.	Towers	
23-26.	Residential Facility for Persons with a Disability - Facility Requirements	17-87
23-27.	Residential Facility for Troubled Youth - Facility Requirements	6-92
23-28.	Residential Facility for Elderly Persons - Facility Requirements	12-91
23-29.	Large Accessory Buildings	14-91,19-04
23-30.	Building in Newly Approved Subdivisions and Planned Residential Unit Developments	14-91, 2002-9
23-31.	Deleted	
23-32.	Family Swimming Pool	14-92
23-33.	Building on Dedicated Streets or Public By Right of Use Roads which are below County Improvement and/or R.O.W. Width Standards	
23-34.	Dwelling or Sleeping in Recreational Vehicles	
23-35.	No Obstruction of Irrigation Ditches, Drains and/or Canals	2002-9
23-36.	Temporary Real Estate Sales Office	2003-8
23-37.	River and Stream Corridor Setbacks	

23-1. Effect of Chapter.

The regulations hereinafter set forth in this Chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this Ordinance.

23-2. Lots in Separate Ownership.

The requirements of this Ordinance as to minimum lot area or lot width shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land in the event that such lot or parcel of land is held in separate ownership at the time this ordinance becomes effective.

23-3. Yard Space for One Building Only.

No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

23-4. Every Dwelling to be on a "Lot".

Every dwelling shall be located and maintained on a "lot" as defined in this Ordinance; such lot shall have the required frontage on a public or approved private street or on a right-of-way which has been approved by the Board of Adjustment.

23-5. Separately Owned Lots - Reduced Yards.

On any lot under a separate ownership from adjacent lots and on record at the time of passage of this Ordinance, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width provided that on interior lots the smaller of the two yards shall be in no case less than five (5) feet, or the larger less than eight (8) feet; and for corner lots the side yard on the side street shall be in no case less than ten (10) feet or the other side yard be less than five (5) feet.

23-36. Temporary Real Estate Sales Office

A temporary real estate sales office may, by Conditional Use Permit, be allowed within the model home or the garage area of a model home located within a residential subdivision development of ten (10) or more lots or phase of more than ten (10) lots, for the sale of real estate within that specific subdivision.

1. A Building Permit may be issued for the temporary sales office 15 days after approval of the Conditional Use Permit; however, prior to use, shall meet all requirements of the Zoning Ordinance and Subdivision Ordinance prior to issuance of a Certificate of Occupancy.
2. The front yard of the Model Homes with temporary sales offices shall be landscaped, as approved with the Conditional Use Permit.
3. If the sales office is established in the garage, the garage door may be temporarily replaced with French doors, sliding glass doors or as approved by the Planning Commission with the Conditional Use Permit. Permanent changes to the site are prohibited. When the temporary use expires, the applicant shall restore the structure to its originally intended use as a residence and/or garage.
4. Temporary Sales Office is limited to one per development or phase, if development is a minimum of ten (10) or more lots and if the phase is a minimum of ten (10) or more lots.
5. Permanent signs are prohibited. The size and location of signs shall be in compliance with applicable provisions of the Zoning Ordinance for the zone in which the use will be conducted and as approved with the Conditional Use Permit. All signs shall be removed when the Permit expires. Any zoning requirements for lighting shall be in compliance
6. Hours of operation shall be limited from 8:00 a.m. to 8:00 p.m.
7. A Conditional Use Permit for temporary sales office in a model home shall be limited to a five (5) year time period, from the time the Certificate of Occupancy is issued. Time Extensions to be considered on a case by case basis by the Planning Commission.
8. If construction of the model home temporary sales office is not completed within one (1) year of the approval by the Township Planning Commission, the Permits shall be considered to be null and void.

23-37. River and Stream Corridor Setbacks

No Structure, accessory structure or parking area shall be built within the required setback from a river or stream as measured from the high water mark of the river or stream. The high water mark shall be determined by the County Engineer. The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native flora and fauna along the river or stream.

1. Structures, accessory structures or parking areas shall not be developed or located within 100 feet on both sides of the Weber River and the North Fork, South Fork and Middle Fork of the Ogden River, from the high water mark of the river.
2. Structures, accessory structures, or parking areas shall not be developed or located within 75 feet on both sides of year-round streams, as determined from the high water mark of the stream.
3. Structures, accessory structures, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.

Exceptions:

1. Bridges or stream alterations approved by the Army Corps of Engineers and Utah Department of Water Resources, Division of Water Quality.

2. Trails built in conformance to Chapter 40, Ogden Valley Pathways, of the Zoning Ordinance.
3. The Ogden River below Pineview Reservoir to its' confluence with the Weber River.

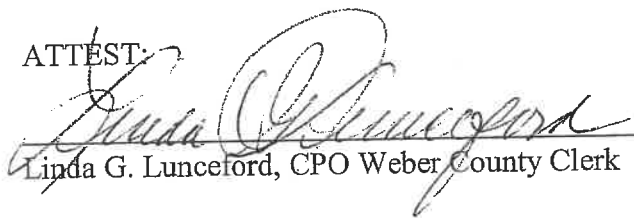
Streams are those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include storm water runoff devices or entirely artificial watercourse unless they are used to store or convey pass through stream flows naturally occurring prior to construction of such devices. Stream water courses where the definition may apply are those that appear on the U.S.G.S. Quad maps.

Passed, Adopted and Ordered published this 20th day of December, 2005, by the Board of County Commissioners of Weber County, Utah,

Commissioner Bischoff	Voting	<u>aye</u>
Commissioner Cain	Voting	<u>aye</u>
Commissioner Dearden	Voting	<u>aye</u>


Kenneth A Bischoff, Chair

ATTEST:


Linda G. Luncelord, CPO Weber County Clerk