



# BOARD OF ADJUSTMENT

---

## VIRTUAL MEETING AGENDA

**Thursday, June 11, 2020  
4:30 p.m.**

***\*Pledge of Allegiance***

### **Regular Agenda Items**

**1. Minutes:** Approval of the April 16, 2020 meeting minutes.

**2. BOA 2020-04 – Consideration and action on a request for an 11-foot variance to the 20-foot side setback, and a request for a 19-foot variance to the required 30-foot rear setback for a future residential dwelling in the FR-1 zone.**  
***Applicant: Doug Neilson, Staff Presenter: Scott Perkes***

**3. BOA 2020-03 – Consideration and action on a request for a variance to the parcel area requirements for the AV-3 zone.**  
***Applicant: Jack Clawson, Staff Presenter: Tammy Aydelotte***

### **4. Adjournment**

**HOST: Steve Burton**

Join Zoom Meeting

<https://us02web.zoom.us/j/81748666757>

Meeting ID: 817 4866 6757

One tap mobile

+13462487799,,81748666757# US (Houston)

+16699006833,,81748666757# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Germantown)

Meeting ID: 817 4866 6757

Find your local number: <https://us02web.zoom.us/j/kwwPU2FbU>

6/2/2020

***The Virtual meeting will be held via Zoom.***

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

**Minutes of the Board of Adjustments meeting of April 16, 2020, held via Zoom Video Conferencing at 4:30 p.m.**

**Members Present:** Laura Warburton-Chair  
Bryce Froerer-Vice Chair  
Phil Hancock  
Rex Mumford  
Nathan Buttars

**Staff Present:** Rick Grover, Planning Director; Steve Burton, Principle Planner; Courtlan Erikson, Legal Counsel; Marta Borchert, Secretary

- Pledge of Allegiance
- Roll Call

**Approval of minutes for February 27, 2020.** Chair Warburton moves to approve the minutes as presented. All members voted aye. Motion carries (5-0).

**BOA 2020-02: Consideration and action on a request for a 25-foot variance to the 75-foot stream corridor setback at 4243 N Powder Mtn Rd, Eden Utah**

Steve Burton states the request is to be able to build within 25 ft. into the stream setback. The applicant is requesting the variance so that he may build a home. The applicant is Robert Bracken has stated that the irrigation easement and the stream setback are the site-specific hardships that warrant the granting of a variance. Mr. Burton states that he has reviewed the request against the variance criteria. It is a year-round stream that requires a 75 ft setback from the high watermark. Mr. Burton shows the Board members the site plan that the applicant has provided indicating the applicant can place the home 50 ft away from the highwater mark. Mr. Burton goes over the criteria: *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 relating 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 is done.* Mr. Burton states that based on these criteria he has found that hardship does exist specifically the Wolf Creek Stream and irrigation easement shown on the subdivision plat. The other lots are not as affected by this. Staff does not feel that the hardship is self-imposed or economic. He notes that the irrigation easement is necessary to ensure proper irrigation to the surrounding area. The proposed dwelling is a normal-sized dwelling for the area. The proposed use is permitted within the same zone. The proposed unit will remain 50 ft outside of the stream which will provide a buffer. Staff feels based that this granting the variance would not go against the goals and recommendations in the General Plan. He notes that Weber County Engineering has not found any issues concerning the proposal. Staff recommends approval of the 25ft variance into the 75 ft corridor setback based on the findings listed in the staff report. The applicant has stated that the proposal meets the variance criteria.

Robert Bracken states that they tried hard to make it work with the 75-foot setback. He notes that the house designed around the property. He states part of the reason they designed their home that way was to preserve as many trees as possible. They chose the lot because of the trees and wildlife.

Chair Warburton asks if there are any questions.

There are none.

Public Comment:

Dear Planning Commissioners:

My family has lived adjacent to this lot since 1975. It is a major deer and wildlife migratory path with the creek. The amount of change in this zoning pushes the animal crossing to within a few feet of the creek and on a steep drop off. With this land owner's drive and structures going from the state highway all the way across to the creek, this will block the animals' safe pathway.

For this reason, I do not think it a good idea to allow the 15 foot exemption.

Thank you.

Sincerely,

Jeff & Deja Mitchell

I am an owner of property located within 500 feet of this address.

I do not believe you should issue a variance to allow a dwelling to be located 15 ft. into the stream corridor setback.

Some streams in this area are seasonal, others contain irrigation water for the farmers in the flats. We have seen seasons in which the stream goes out of its banks. We also had to replace a lot of carpeting when one of the streams got blocked.

Please do not grant this variance.

Rona Lee Maughan

**MOTION:** Bryce Froerer moves to approve BOA 2020-02: Consideration and action on a request for a 25-foot variance to the 75-foot stream corridor setback at 4243 N Powder Mtn Rd, Eden Utah based on the finding that 1. The applicant has demonstrated that the proposal meets the variance criteria outlined in LUC §102-3-4, and the Wolf Creek stream and the irrigation ditch are the hardships. Also based on all agency requirements. Phil Hancock Seconds. Motion carries (5-0)

**Rules of Order: Approval of Rules of Order-** This item was removed from the agenda because the rules of order were approved and review at the February 27, 2020 meeting.

**Adjournment- 4:47pm**

**Respectfully Submitted,**

**Marta Borchert**



# 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 an 11-foot variance from the side yard setback and a request for a 19-foot variance from the rear yard setback in the FR-1 zone.

**Agenda Date:** Thursday, June 11, 2020

**Applicant:** Doug Neilson, Owner

**File Number:** BOA 2020-04

### Property Information

**Approximate Address:** 301 Ogden CYN, Ogden, Utah 84401

**Project Area:** 0.58 acres

**Zoning:** Forest Residential Zone (FR-1)

**Existing Land Use:** Residential

**Proposed Land Use:** Residential

**Parcel ID:** 20-030-0012, 20-030-0011, 20-030-0010, 20-030-0009, 20-030-0013x

**Township, Range, Section:** T6N, R1E, SW ¼ Section 18

### Adjacent Land Use

<b>North:</b> Ogden River	<b>South:</b> USFS
<b>East:</b> Residential	<b>West:</b> Ogden River

### Staff Information

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

**Report Reviewer:** SB

## Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 13 (Forest Residential FR-1 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 12 (Noncomplying Structures, Nonconforming Uses, And Nonconforming Lots) Section 13 (Setback Requirements For Nonconforming Lots)

## Background

The applicant has submitted variance requests for side and rear yard setbacks for a proposed nonconforming and irregularly shaped lot in the FR-1 Zone. The first request is for an 11-foot variance from the side yard setback of 20-feet to allow for a 9-foot side setback. The second request is a 19-foot variance from the rear yard setback of 30-feet to allow for an 11-foot rear setback. Both of these variances are requested to facilitate a reasonable single-family dwelling footprint on an amended Lot 6 of the Hermitage Block 10 subdivision (depicted as Lot 3 on the proposed subdivision amendment).

As indicated above, and in tandem with these variance requests, the applicant has also submitted a subdivision amendment application to reconfigure Lots 3, 4, 5, and 6 of the existing Hermitage Block 10 subdivision. The overall intent of these applications is to “allow for adequate spacing for the proposed single-family dwellings [301, 303, and 305], septic systems, and to give enough depth for the driveway to come off of Highway 39.” (See **Exhibit A**, Variance Application). This will be done by eliminating Lot 5 of the existing subdivision and using its area and frontage to increase the remaining 3 lots’ overall width and area. By doing so, these amendments will allow the remaining lots to be less nonconforming with current zoning standards and improve the overall spacing and configuration of the developable areas (see **Exhibit B** for the proposed subdivision plat).

Per LUC 101-1-7, Lot 3 of the proposed amended subdivision meets the definition of both a Nonconforming and Irregular Shaped Lot:

*Lot, nonconforming. The term "nonconforming lot" means a lot or parcel that complied with lot standards in effect at the time of the lot's creation and, because of subsequent changes to the Land Use Code, does not conform to the current lot*

standards. Applicable standards include lot standards of the zone in which the lot is located, lot standards of the subdivision ordinance, and other lot standards of this Land Use Code.

Lot, irregular shaped. The term "irregular shaped lot" means any building lot whose boundaries are:

1. Comprised of three or more than four lot lines;
2. A lot in which the side lot lines are not radial or perpendicular to the front lot line; or
3. In which the rear lot line is not parallel to the front lot line.

Where an irregular shaped lot occurs, the interior angle of intercepting lot lines with an angle of 135 degrees or greater shall be considered the same lot line and yard designation. If the angle is less than 135 degrees, the yard designation shall be determined to be different and the applicable yard requirements would apply.

Due to its nonconforming status and irregular shape, this lot is allowed a standard reduction in side yard setback requirements from the FR-1 zoning minimum of 20 feet. This reduction is calculated per the requirements of LUC 108-12-13 as follows:

Sec 108-12-13 Setback Requirements For Nonconforming Lots

A nonconforming lot that has a smaller width than is required for the zone in which it is located may be developed in a manner that does not exceed the following allowed reduction in side yard setbacks:

- (a) A nonconforming lot's actual width (v) may be divided by the current required frontage/width (w) in order to formulate a ratio or proportional relation (x). (Formula: "v" divided by "w" equals "x".)
- (b) The ratio may then be multiplied by the current zone's side yard setback requirement (y) in order to establish a reduced setback (z). (Formula: "x" multiplied by "y" equals "z".)
- (c) The reduced side yard setback is subject to the conditions listed below.
  - (1) Under no circumstances shall an interior lot be allowed to reduce the side-yard setback requirement below five feet on one side and eight feet on the other.
  - (2) Under no circumstances shall a corner lot be allowed to reduce the side-yard requirement below ten feet when the side yard fronts on a street.

The calculation results for the standard side yard setbacks on Lot 3 of the proposed amended subdivision are as follows:

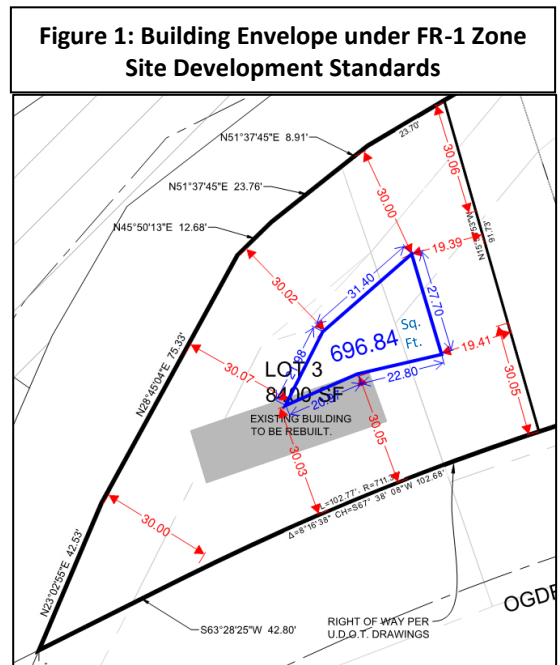
145.47' Actual Width  
 145.47' / 150' (FR-1 zone minimum width) = 0.97 (Reduced side yard setback ratio)  
 0.97 x 20' (FR-1 zone side yard setback minimum) = **19.4'** (reduced side yard setback)

The results of this ratio calculation indicate that the standard side-yard setback for Lot 3 would only be reduced by **0.6 feet**. This is primarily due to the large width of Lot 3. Whereas a nonconforming lot with a smaller width (such as the other two lots in the proposed subdivision) enjoy a much larger setback reduction due to a larger ratio between the actual lot width, and required lot width. For example, Lot 2 of the proposed subdivision is allowed a reduced side yard setback of 8.02 feet.

In summary, the standard side-yard reduction for nonconforming lots, in conjunction with the required rear and front yard setbacks in the FR-1 zone, is not enough to accommodate a reasonable building envelope on Lot 3 of the proposed amended subdivision. See **Figure 1** for the allowed building footprint (696.84 sq. ft.) under the current FR-1 site development standards and standard reduced side-yard setbacks:

The applicant's application narrative argues:

*"Even with the increased space from eliminating one lot, the shape and depth created by the sharp angle [west side/rear property line junction] provide an unreasonable shape and space in which to fit the footprint of a home... granting the variances would allow the new dwelling to have the same setback that it already has [see existing structures] on its west side and will be similar or even better than others nearby."*



## 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.*

Staff's analysis and findings are discussed below:

- a. Literal enforcement of the Land Use Code would require an undesirable result. Literal enforcement of the 30-foot front yard setback and the 19.4-foot reduced side yard setback would require a building footprint that would be inefficient and would produce a structure that does not match neighboring development.
- b. The special circumstances that apply in this instance are due to the unique wide and shallow shape of the parcel, that when standard zoning setbacks are applied, would create a hardship on the owner by preventing the placement a reasonable dwelling footprint on the property.
- c. Granting the variance would allow the owner of the parcel to improve the overall subdivision proportions and building separation while also improving the nonconformance of the existing lots to better match current zoning dimensions.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and 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. Granting this variance will improve the area through the reduction of one lot, additional lot and building separation, and consistent building setbacks.

## Conformance to the General Plan

Preservation of open spaces and the development of single-family residences are supported by the Ogden Valley General Plan. The same are proposed through these variance requests and associated subdivision amendment.

## Staff Recommendation

Staff recommends approval of an 11-foot variance from the side yard setback and a 19-foot variance from the rear yard setback in the FR-1 zone. This recommendation is conditioned upon the approval of an associated subdivision amendment to the Hermitage Block 10 subdivision.

## Exhibits

- A. Variance Application
- B. Current Hermitage Block 10 Subdivision Plat
- C. Proposed Subdivision Plat Amendment

# Location Map 1





## 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	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
----------------------------	-------------------	-----------------------------	--------------------------

### Property Owner Contact Information

Name of Property Owner(s) <b>Doug Neilson</b>		Mailing Address of Property Owner(s) <b>3744 Van Buren Ave. Ogden, UT 84403</b>	
Phone <b>801-624-9077</b>	Fax <b>—</b>	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address <b>Douglasray15@gmail.com</b>			

### Authorized Representative Contact Information

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

### Appeal Request

A variance request:

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

An Interpretation of the Zoning Ordinance

An Interpretation of the Zoning Map

A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance

Other: \_\_\_\_\_

### Property Information

Approximate Address <b>301 Ogden CYN Ogden, UT 84401</b>		Land Serial Number(s) <b>Parcel #: 20-030-0012 and 20-030-0011</b>	
Current Zoning <b>FR1</b>			
<b>Existing Measurements</b>		<b>Required Measurements (Office Use)</b>	
Lot Area <b>8,398.68</b>	Lot Frontage/Width <b>147</b>	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback <b>30</b>	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback <b>11.45</b>	Side Yard Setback <b>9</b>	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

**Applicant Narrative**

Please explain your request.

I am requesting a side yard variance on parcel 6 of the proposed Neilson Hermitage subdivision. I propose the East side yard set back be ~~8~~ 9 feet in addition to the North West side/rear setback to 11 feet. This will allow for adequate spacing for the proposed single family dwellings, Septic systems, and to give enough depth for the driveway to come off of Highway 39.

**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.

Due to the sharp angle of the west corner of parcel 6, the shape of the lot is the main hardship. The wide frontage does not permit a substantial allowed reduction, given for the FR1 Zone. The rear setback is also a burden because of the unique shape. We propose to maintain the existing structures rear-side setback of 11 feet.

**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:

Even with the increased space from eliminating one lot, the shape and depth created by the sharp angle provide an unreasonable shape and space in which to fit the footprint of a home.

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

The square footage of this property is larger than its neighbors. Granting the variance would allow the new dwelling to have the same setback that it already has on its west side and will be similar or even better than others nearby.

Variance Request (continued...)

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

For 30 plus years the neighborhood has dealt with these properties that attract vandalism, are eyesores to the area and are hazardous in general. This variance would allow us to make sense of the property by spacing 301, 303 and 305 aesthetically, while utilizing the square footage rationally.

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

Similar to my answer in #4 - receiving this variance would allow me to develop the property, beautify the area, increase surrounding property values and make this home functional and practical by doing what other homes in this area have already done - All without going to unreasonable lengths to accomplish it.

Property Owner Affidavit

I (We), Doug Neilson, 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)

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

Subscribed and sworn to before me this 10 day of May, 2020.  


[Signature]  
(Notary)

Authorized Representative Affidavit

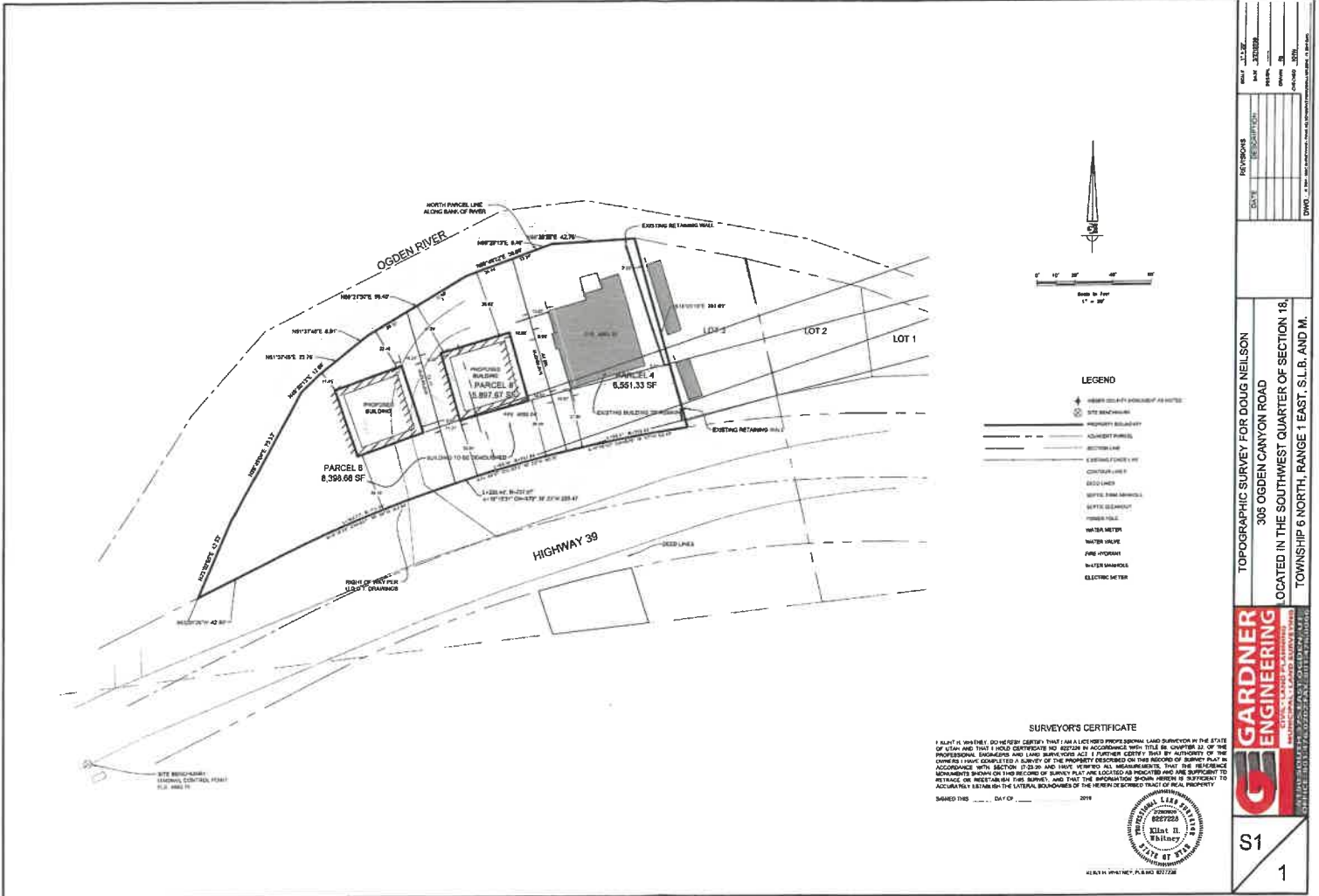
I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering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



DATE: 11/15/2019	SCALE: AS SHOWN
PROJECT: 305 OGDEN CANYON ROAD	CLIENT: DOUGLAS NEILSON
DESCRIPTION: TOPOGRAPHIC SURVEY	DRAWN BY: [Name]
TOPOGRAPHIC SURVEY FOR DOUG NEILSON 305 OGDEN CANYON ROAD LOCATED IN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 1 EAST, S.1.B. AND M.	
<b>GARDNER ENGINEERING</b> 1000 S. 1000 E. SUITE 100 OGDEN, UTAH 84403 PH: 435-243-1111 FAX: 435-243-1112 WWW.GARDNERENGINEERING.COM	
S1	1

431- 5.10

# SUBDIVISION OF BLOCK 10 OF THE HERMITAGE

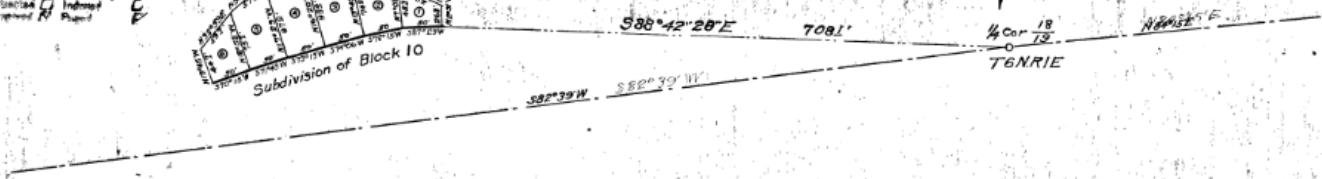
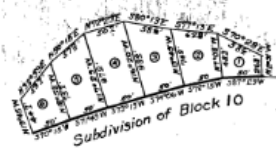
JUNE 1921 56

SCALE 1" = 100'

STATE OF UTAH  
County of Weber  
Filed for record in accordance with  
Section 24, A. D. 22  
of P. S. 6, ch. 2, § 14, and sec. 2, 4  
of P. S. 8, ch. 5, § 57  
Glenard Fiel  
County Surveyor



Recorded Abstract & Original  
L. H. Meyer  
Indexed  
Filed



**DESCRIPTION**  
A part of the SW 1/4 of Sec 18, T6N, R1E, Salt Lake Meridian, U.S. Survey, and shown on the map of "The Hermitage of Ogden Canyon" as block 10. Beginning at a point whence the 1/4 Cor between Sec 18 & 19, T6N, R1E, bears S88°42'28"E 708.1 feet and running thence by true courses and distances as shown above hereon thereby subdividing a part of said block 10 into six (6) lots.

**CERTIFICATE OF SURVEY**  
I, John C. Brown, County Surveyor of Weber County, Utah, hereby certify that the courses and distances hereon shown are from field notes of a survey made by me and are correct to the best of my knowledge and belief.  
John C. Brown  
County Surveyor

**DEDICATION**  
STATE OF UTAH }  
COUNTY OF WEBER }  
We, Mary W. Wilson, Wm. W. Wilson, single, Harriet S. Wilson and Flora M. Wilson being all the owners of block 10, partially subdivided as shown above, do hereby reaffirm the dedication as set forth on "The Hermitage" plat in so far as it may affect whomsoever owns or may own any lot or part of lot as hereon shown as a subdivision of part of block 10.  
In witness whereof we hereunto set our hands this ninth day of January 1922.

**ACCEPTANCE**  
I hereby certify that the annexed plat was accepted by the Board of Commissioners of Weber County, Utah, on the 23<sup>rd</sup> day of January 1922.  
In witness whereof I have hereunto set my hand and affixed my official seal.  
Attest- Claude J. Mace  
County Clerk

Mary W. Wilson  
Wm. W. Wilson  
Harriet S. Wilson

Personally appeared before me, this 13<sup>th</sup> day of January 1922, Harriet S. Wilson, one of the co-owners, who duly acknowledged that she signed the foregoing DEDICATION.  
Heir Blackwell  
Notary Public in and for the County of Los Angeles  
State of California

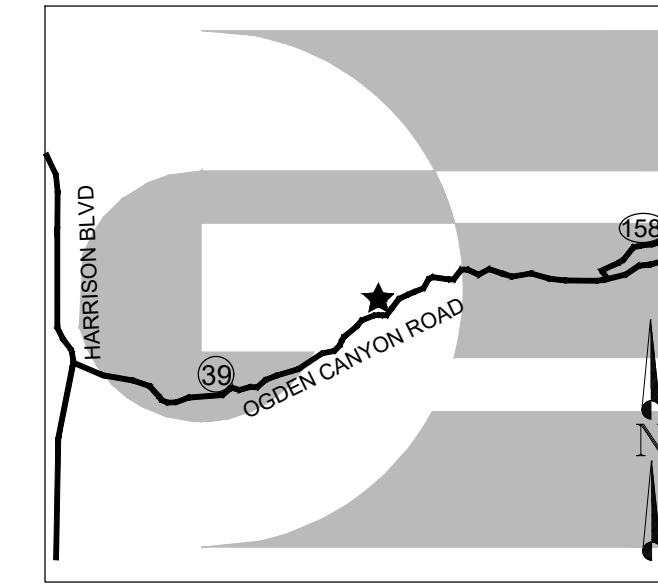
Subscribed and sworn to before me, this 9<sup>th</sup> day of January 1922, by all of the above except Harriet S. Wilson.  
John Q. Davis  
Notary Public.  
Residing at Ogden Utah.  
My commission expires Dec. 13<sup>th</sup> 1922.

My commission expires Aug 14, 1924.

# DOUG NEILSON SUBDIVISION

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 18,  
TOWNSHIP 6 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN,  
WEBER COUNTY, UTAH  
MAY 2020

VICINITY MAP  
NOT TO SCALE



BOUNDARY DESCRIPTION Exhibit C

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF OGDEN CANYON ROAD BEING LOCATED NORTH 83°27'09" EAST 1513.72 FEET ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER AND NORTH 0°00'00" EAST 40.77 FEET; RUNNING THENCE NORTH 23°02'55" EAST 42.53 FEET; THENCE NORTH 28°45'04" EAST 75.33 FEET; THENCE 45°50'13" EAST 12.68 FEET; THENCE NORTH 51°37'45" EAST 23.76 FEET; THENCE NORTH 51°37'45" EAST 8.91 FEET; THENCE NORTH 59°21'50" EAST 59.40 FEET; THENCE NORTH 69°49'22" EAST 38.69 FEET; THENCE NORTH 69°29'13" EAST 8.40 FEET; THENCE NORTH 86°30'55" EAST 42.76 FEET; THENCE SOUTH 16°03'18" EAST 101.01 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOLLOWING TWO(2) COURSES (1) ALONG THE ARC OF A 707.87 FOOT RADIUS CURVE TO THE LEFT 226.44 FEET, HAVING A CENTRAL ANGLE OF 18°19'31" WITH A CHORD BEARING SOUTH 72°38'23" WEST 225.47 FEET; (2) SOUTH 63°28'25" WEST 42.80 FEET TO THE POINT OF BEGINNING. CONTAINING 20,848 SQUARE FEET OR 0.479 ACRES MORE OR LESS.

### SURVEYOR'S CERTIFICATE

I, KLINT H. WHITNEY, DO HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH AND THAT I HOLD CERTIFICATE NO. 8227228 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND LAND SURVEYORS ACT. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE COMPLETED A SURVEY OF THE PROPERTY AS SHOWN AND DESCRIBED ON THIS PLAT, AND HAVE SUBDIVIDED SAID PROPERTY INTO LOTS AND STREETS, TOGETHER WITH EASEMENTS, HEREAFTER TO BE KNOWN AS DOUG NEILSON SUBDIVISION IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS; THAT THE REFERENCE MONUMENTS SHOWN HEREON ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY; THAT ALL LOTS MEET THE REQUIREMENTS OF THE LAND USE CODE; AND THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY.

SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.



KLINT H. WHITNEY, PLS NO. 8227228

### OWNER'S DEDICATION

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

### DOUG NEILSON SUBDIVISION

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 GRANT AND DEDICATE A PERPETUAL EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED ON THE PLAT AS PUBLIC UTILITY, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES, STORM DRAINAGE FACILITIES OR FOR THE PERPETUAL PRESERVATION OF WATER DRAINAGE CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY BE AUTHORIZED BY WEBER COUNTY, UTAH, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS.

SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.

BY: \_\_\_\_\_

### ACKNOWLEDGEMENT

STATE OF UTAH )  
COUNTY OF WEBER )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me \_\_\_\_\_, A Notary Public, personally appeared DOUG NEILSON, Proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my hand and official seal.

STAMP

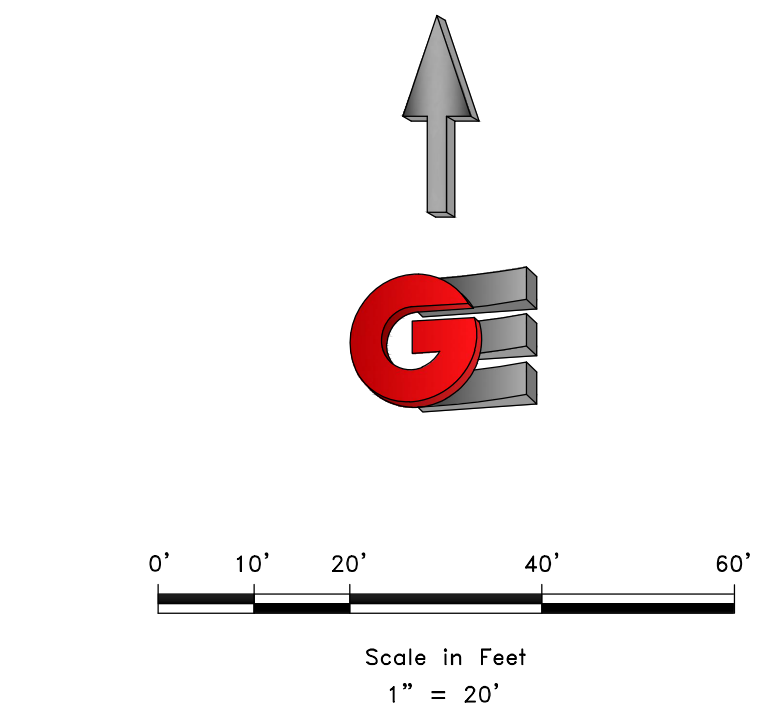
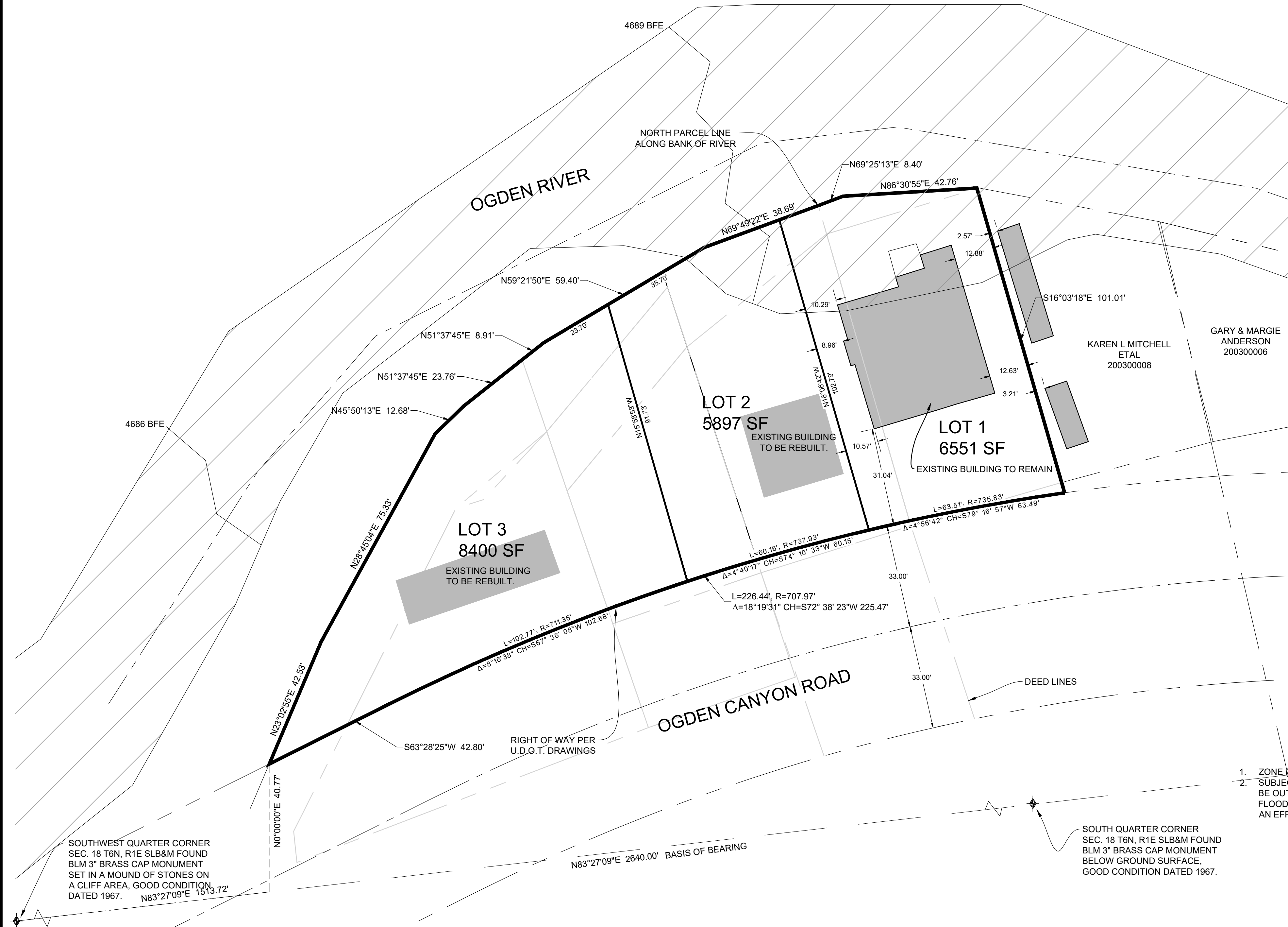
NOTARY PUBLIC

### NOTES

1. ZONE (R-1) CURRENT YARD SETBACKS: FRONT: 20', SIDE: 8', REAR: 20'
2. SUBJECT PROPERTY FALLS WITHIN FEMA FLOOD ZONE "X" - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AND ZONE AE WITH BASE FLOOD ELEVATIONS (BFE) SHOWN HEREON. PER FEMA MAP NO. 49057C0432E WITH AN EFFECTIVE DATE OF DECEMBER 16, 2005.

### NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO CREATE A THREE LOT SUBDIVISION ON THE PROPERTY AS SHOWN AND DESCRIBED HEREON. THE SURVEY WAS ORDERED BY DOUGLAS NEILSON. THE CONTROL USED TO ESTABLISH THE BOUNDARY WAS THE EXISTING WEBER COUNTY SURVEY MONUMENTATION AS SHOWN AND NOTED HEREON. THE BASIS OF BEARING IS THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 1 EAST, OF THE SALT LAKE BASE AND MERIDIAN WHICH BEARS NORTH 83°27'09" EAST WEBER COUNTY, UTAH NORTH, NAD 83 STATE PLANE GRID BEARING. THE BOUNDARY WAS ALSO DETERMINED BY WARRANTY DEED WITH AN ENTRY NUMBER RECORDED AS 2933000 AND DEEDS OF ADJACENT PROPERTIES.



### LEGEND

- ◆ WEBER COUNTY MONUMENT AS NOTED
- SET 24" REBAR AND CAP MARKED GARDNER ENGINEERING
- SUBDIVISION BOUNDARY
- LOT LINE
- - - ADJACENT PARCEL
- - - SECTION LINE
- - - EASEMENT
- ▨ AE FLOODWAY

#### WEBER COUNTY SURVEYOR

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

SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
COUNTY SURVEYOR

#### 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 \_\_\_\_\_, 2020.

\_\_\_\_\_  
COUNTY ATTORNEY

#### 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 \_\_\_\_\_, 2020.

\_\_\_\_\_  
COUNTY ENGINEER

#### WEBER COUNTY COMMISSION ACCEPTANCE

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT, THE DEDICATION OF STREETS AND OTHER PUBLIC WAYS AND FINANCIAL GUARANTEE OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION THEREON ARE HEREBY APPROVED AND ACCEPTED BY THE COMMISSIONERS OF WEBER COUNTY, UTAH.

SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.

\_\_\_\_\_  
CHAIRMAN, WEBER COUNTY COMMISSION

#### WEBER COUNTY PLANNING COMMISSION APPROVAL

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

SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.

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

#### WEBER - MORGAN HEALTH DEPARTMENT

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

SIGNED THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.

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

P:\2020\1 - MISC SURVEY\1980 - DOUG NEILSON SURVEY\DOUG NEILSON PLAT.DWG



**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 to the lot area requirements of the AV-3 zone.  
**Agenda Date:** Thursday, June 11, 2020  
**Applicant:** Jack & Linda Clawson  
**File Number:** BOA 2020-03

**Property Information**

**Approximate Address:** 3641 N River Dr., Eden, UT  
**Project Area:** 13.39 acres  
**Zoning:** Agricultural Valley Zone (AV-3)  
**Existing Land Use:** Residential  
**Proposed Land Use:** Remain as existing  
**Parcel ID:** 22-015-0006  
**Township, Range, Section:** T7N, R1E, Section 21 SW

**Adjacent Land Use**

<b>North:</b> Residential/Rivers Edge Rd.	<b>South:</b> Agriculture/Residential
<b>East:</b> River Dr.	<b>West:</b> Agriculture/Residential

**Staff Information**

**Report Presenter:** Tammy Aydelotte  
 taydelotte@co.weber.ut.us  
 801-399-8794  
**Report Reviewer:** SB

**Applicable Codes**

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 6 (Agricultural Valley AV-3 Zone)
- Weber County Land Use Code Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands Overlay Districts)

**Background**

The applicant is requesting a variance to the lot area requirements of the AV-3 zone in order to plat a lot that is separated by a utility corridor owned by the Utah Power and Light Company.

The application and an explanation of the request (Exhibit A) have been prepared by the applicant. If approval of the variance is granted, it will allow the owner to develop a subdivision that includes a 3 acre lot that is separated by UP&L property. . As shown in Exhibit B, Lot 2 (the lot in question) as proposed, would be two parcels, including one 1.84 acre lot and one 1.16 acre lot. The lot area would add up to three acres, however, the county’s definition of “lot” indicates it should be one contiguous parcel. Since the proposed lot is not contiguous, the county could not approve the proposed subdivision lot without the applicant receiving a variance.

County review agencies including the Engineering division have no concerns with this request.

**Summary of Board of Adjustment Considerations**



Title 102 Chapter 3 of the Weber County Land Use Code states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. In order for a variance to be granted it must be shown that 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.*

Staff's analysis and findings relative to the land use code are discussed below:

- a. Weber County defines 'lot' as follows:

*The term "lot" means a parcel of land capable of being occupied by an allowed use, building or group of buildings (main or accessory), and approved for human occupancy either full- or part-time; together with such yards, open spaces, parking spaces and other areas required by this title and the Land Use Code. Such parcel shall also have frontage on a street or on a right-of-way approved by the planning director. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy any one lot."*

The AV-3 zone requires a minimum acreage of three acres per lot.

Literal enforcement of the land use code, specifically the county's area requirements in the AV-3 zone would not permit the proposed subdivision lot. Staff feels the denial of a subdivision lot would create an unreasonable hardship that is not necessary to carry out the purposes of the land use code.

- b. While many other owners in the AV-3 Zone have properties similar in size, most do not have the unique challenge of developing around a utility corridor. In order for the applicant to subdivide the parcel into two separate lots in the future, and utilize all of the land contained in the description of the parcel number, a variance would need to be granted, allowing an exception to the definition of a lot in the Weber County Land Use Code. Staff feels that the location of the utility corridor creates a special circumstance that is not applicable to other properties in the same zone.
- c. Other properties within the AV-3 zone are able to create lots based on existing zoning. The granting of the proposed variance is essential for the owner of the subject parcel to enjoy the same right as others.

- d. By developing a subdivision with existing three acre density, the proposal is not contrary to the public interest and has no substantial effect on the general plan.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but to allow a property owner the right to develop this parcel according to permitted uses for the AV-3 zone. Granting the request would serve as substantial justice to allow the current owners continued enjoyment of their property.

**Staff Recommendation**

Staff recommends approval of the variance to the lot area requirements of the AV-3 zone, based on the proposed lot 2 layout, including one portion with 1.84 acres and the other portion with 1.16. The recommendation is based on the applicant’s demonstrated compliance with the variance criteria outlined in LUC 102-3-4(b).

**Exhibits**

- A. Application and narrative
- B. Applicants early site plan

**Maps**





**Weber County**

**Incoming Application Processing Form**

Project Name: Clawson Variance  
 Date Submitted: 5-6-2020 Zoning: AV-3 Received by: Steve B.  
 Culinary Water Provider: N/A Secondary Water Provider: N/A Waste Water Provider: N/A

**Project Type:**

- |   |  |
|---|--|
| <input type="checkbox"/> Alternative Access             | <input type="checkbox"/> Subdivisions:                 |
| <input checked="" type="checkbox"/> Board of Adjustment | <input type="checkbox"/> Subdivision (Small/Amendment) |
| <input type="checkbox"/> Building Parcel Designation    | <input type="checkbox"/> Subdivision-(Prelim/Final)    |
| <input type="checkbox"/> Conditional Use Permit         | <input type="checkbox"/> Subdivision-Cluster           |
| <input type="checkbox"/> Design Review                  | <input type="checkbox"/> Zoning Text Amendment         |
| <input type="checkbox"/> Hillside Review                | <input type="checkbox"/> Zoning Map Amendment          |
| <input type="checkbox"/> Land Use Permit                | <input type="checkbox"/> Zoning Development Agreement  |
|   | <input type="checkbox"/> Vacation                      |
|   | <input type="checkbox"/> Other _____                   |

**Project Description:** This is a variance application to the County's definition of "lot" to allow a building lot to be separated by UP&L Property.

**Applicable Ordinances:**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Accessory Apartments  | <input type="checkbox"/> Nonconforming Buildings, Uses and Parcels                         | <input type="checkbox"/> Petitioner Requirements-Rezoning Procedure Development Agreement |
| <input type="checkbox"/> Airport Zones and Height Regulations                          | <input type="checkbox"/> Ogden Valley Architectural, Landscape and Screening Standards     | <input type="checkbox"/> Planned Residential Unit Development                             |
| <input type="checkbox"/> Cluster Subdivision   | <input type="checkbox"/> Ogden Valley Lighting   | <input type="checkbox"/> Public Buildings and Public Utility Substations and Structures   |
| <input type="checkbox"/> Design Review   | <input type="checkbox"/> Ogden Valley Pathways   | <input type="checkbox"/> Signs  |
| <input type="checkbox"/> Drinking Water Source Protection                              | <input type="checkbox"/> Ogden Valley Sensitive Lands Overlay District                     | <input type="checkbox"/> Standards for Single Family Dwellings                            |
| <input type="checkbox"/> Hillside Development Review and Procedures and Standards      | <input type="checkbox"/> Ogden Valley Signs  | <input type="checkbox"/> Supplementary & Qualifying Reg                                   |
| <input type="checkbox"/> Home Occupation   | <input type="checkbox"/> Parking and Loading Space, Vehicle Traffic and Access Regulations | <input type="checkbox"/> Time Share   |
| <input type="checkbox"/> Land Use Permit, Building Permit and Certificate of Occupancy |  | <input type="checkbox"/> Zones & Districts  |
| <input type="checkbox"/> Natural Hazards Overlay Districts                             |  |   |

**Weber County Review Agencies:**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Weber-Morgan Health Department-Drinking Water Division | <input type="checkbox"/> Weber County Economic Development Partnership | <input type="checkbox"/> Weber County School District-Transportation Division |
| <input type="checkbox"/> Weber-Morgan Health Department-Waste Water Division    | <input checked="" type="checkbox"/> Weber County Engineering Division  | <input type="checkbox"/> Weber County Sheriff                                 |
| <input type="checkbox"/> Weber County Addressing Official                       | <input type="checkbox"/> Weber County GIS                              | <input type="checkbox"/> Weber County Special Events                          |
| <input type="checkbox"/> Weber County Animal Services                           | <input type="checkbox"/> Weber County CED                              | <input type="checkbox"/> Weber County Surveyor's Office                       |
| <input type="checkbox"/> Weber County Assessor's Office                         | <input checked="" type="checkbox"/> Weber County Planning Division     | <input type="checkbox"/> Weber County Treasurer's Office                      |
| <input type="checkbox"/> Weber County Board of Adjustment                       | <input type="checkbox"/> Weber County Recorder's Office                | <input checked="" type="checkbox"/> Weber Fire District                       |
| <input type="checkbox"/> Weber County Building Inspection                       | <input type="checkbox"/> Weber County Recreation Facilities            | <input type="checkbox"/> Other _____  |
| <input type="checkbox"/> Weber County Commission                                | <input type="checkbox"/> Weber County Roads Division                   |   |

**Outside Review Agencies:**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Bona Vista Water Improvement District | <input type="checkbox"/> Ogden Valley Starry Nights             | <input type="checkbox"/> Utah Department of Transportation               |
| <input type="checkbox"/> Causey Estates Lot Owners Assoc.      | <input type="checkbox"/> Powder Mountain Water & Sewer District | <input type="checkbox"/> Utah Division of Air Quality                    |
| <input type="checkbox"/> Central Weber Sewer Improvement       | <input type="checkbox"/> Dominion Energy                        | <input type="checkbox"/> Utah Division of Drinking Water                 |
| <input type="checkbox"/> Cole Canyon Water Company             | <input type="checkbox"/> Rocky Mountain Power                   | <input type="checkbox"/> WC3   |
| <input type="checkbox"/> Centurylink                           | <input type="checkbox"/> State of Utah Dept of Ag & Food        | <input type="checkbox"/> Weber Pathways                                  |
| <input type="checkbox"/> Eden Irrigation Company               | <input type="checkbox"/> Taylor Geotechnical                    | <input type="checkbox"/> West Warren-Warren Water & Sewer                |
| <input type="checkbox"/> Hooper Irrigation Company             | <input type="checkbox"/> Taylor-West Weber Water District       | <input type="checkbox"/> Wolf Creek Water and Sewer Improvement District |
| <input type="checkbox"/> Hooper Water Improvement District     | <input type="checkbox"/> Uintah Highlands Water & Sewer Dist    | <input type="checkbox"/> Other _____                                     |
| <input type="checkbox"/> Nordic Mountain Water Inc.            | <input type="checkbox"/> US Forest Service                      |  |

# 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	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
----------------------------	-------------------------------	-----------------------------	--------------------------

## Property Owner Contact Information

Name of Property Owner(s) <i>Jack + Linda Clawson</i>		Mailing Address of Property Owner(s) 3641 N River Dr	
Phone 801-721-5280	Fax	Eden UT 84310	
Email Address Sherri_clawson@hotmail.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) Jason Peterson		Mailing Address of Authorized Person P O Box 60	
Phone 801-745-3573	Fax 801-745-3577	Eden UT 84310	
Email Address jason@petersonbuilders.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

## Appeal Request

A variance request:

Lot area  
  Yard setback  
  Frontage width  
  Other: 1 Lot separated by UP+L Property

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 3641 N River Dr Eden UT 84310		Land Serial Number(s) 21 015 0006	
Current Zoning AV-3			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 13.39 Acres	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.

We are requesting a variance for 1 lot of a 2 lot subdivision in Eden. The property is divided by Utah Power and Light where the high voltage transmission lines run across the valley. In working with the planners on the best options to be able to subdivide and have access to the property the proposed lots would be accessed by a new 150' dedicated county road at the expense of the owner. The second of the 2 lots needs to have part of its area on the other side of the UP&L property to have frontage on the new road and meet the acreage requirements. Because of this we are requesting a variance to allow for this lot to be allowed with the division because of the hardship created by the split created by the strip dividing the parcel.

The original parcel that is being subdivided has the same split and characteristics as the proposed new parcel would have. This variance would allow for this second lot which would meet all other requirement.

## 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.

The division of this property by Rocky Mountain Power creates a hardship under the ordinances related to subdividing property and would prohibit the owner from the same rights as other property owners in the same zone.

**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:

The parcel that is proposed to be subdivided is split by property owned by Rocky Mountain Power for the transmission lines that run across the valley. This split is the same on the existing parcel as would exist on the new lot in order to get frontage on the new road and meet the acreage requirements.

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

The variance is needed to allow the creation of this lot which meets all other requirements for this zone.

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

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

This lot will comply with all requirements of the general plan and subdivision ordinances including size + frontage.

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

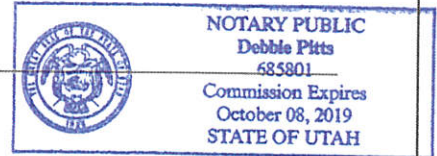
This variance would allow the owner to create this second lot accessed by the owner provided and dedicated road and be able to use the property in the same manner that all other property owners do in the same zone.

**Property Owner Affidavit**

I (We), Linda R. Clawson, 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.

Linda R. Clawson  
(Property Owner)

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



Subscribed and sworn to me this 4 day of February, 2019.

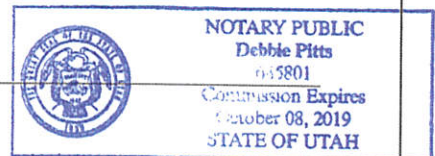
Debbie Pitts  
(Notary)

**Authorized Representative Affidavit**

I (We) Linda R. Clawson, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), DAVID PETERSON, 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.

Linda R. Clawson  
(Property Owner)

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

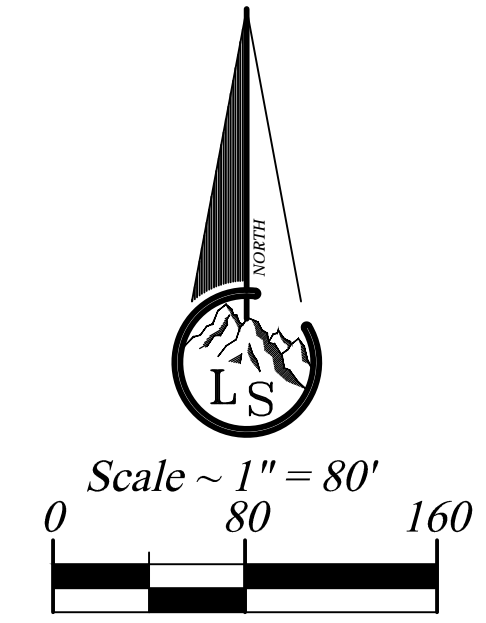


Dated this 4 day of February, 2019, personally appeared before me Linda R. Clawson, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

Debbie Pitts  
(Notary)

# CLAWSON SUBDIVISION

PART OF THE SW 1/4 OF SECTION 21 TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN  
UNINCORPORATED WEBER COUNTY, UTAH - JANUARY 2019



- Legend**
- - - - - EXISTING FENCE
  - - - - - EASEMENTS
  - - - - - STREET CENTERLINE
  - ◆ FND SECTION CORNER
  - ▲ FND STREET MONUMENT
  - FND CURB NAIL
  - FND REBAR AND CAP
  - SET #5x24" REBAR AND CAP STAMPED LANDMARK
  - ⊙ ELEVATION BENCHMARK
  - ▨ ROAD/STREET DEDICATION
  - r RECORD DATA
  - md MEASURED DATA

**OWNER'S DEDICATION**

We the undersigned owners of the herein described tract of land, do hereby set apart and subdivide the same into lots and streets as shown hereon and name said tract CLAWSON SUBDIVISION:

We hereby dedicate to the governing entity for the purpose of public use all those parts or portions of said tract of land designated as street(s) and/or road(s), the same to be used as public thoroughfares. And further dedicate grant and convey said street(s) or and/or road(s) as public utility corridors as may be authorized by the governing entity.

We hereby grant and dedicate a perpetual right and easement over, upon and under the lands designated hereon as public utility, storm water detention pond(s), drainage easement(s), and canal maintenance easement(s), the same to be used for the installation maintenance and operation of public utility service line(s), storm drainage facilities, irrigation canal(s) or for the perpetual preservation of water channels in their natural state whichever is applicable to the governing entity and as may be authorized by the governing entity, with no buildings or structures being erected within such easements.

**Individual Acknowledgement**

IN WITNESS WHEREOF, the hand of said Grantor(s), this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

NAME _____	NAME _____
STATE OF UTAH )	
) SS	
COUNTY OF WEBER )	

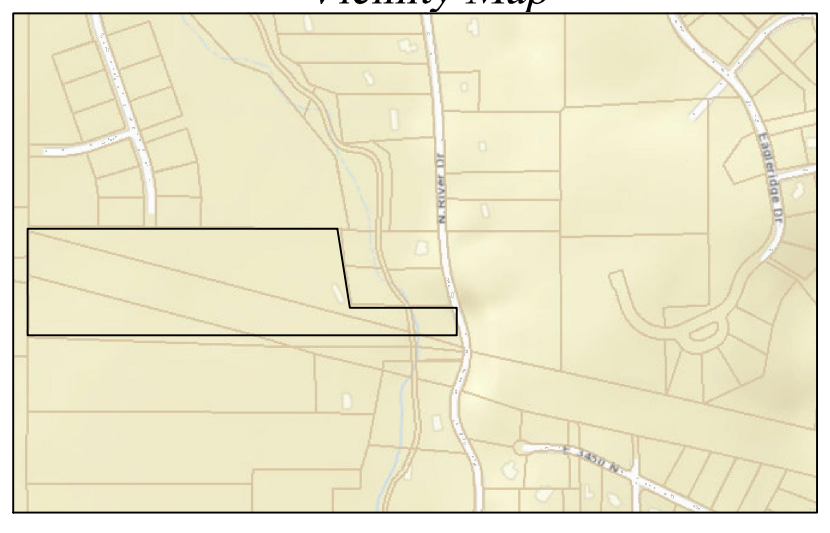
On the date first above written personally appeared before me the above signer(s) of the within instrument, who duly acknowledged to me that they executed the same.

WITNESS my hand and official stamp the date in this certificate first above written:

As a Notary Public commissioned in Utah, Witness my hand and official seal.

Notary Signature: \_\_\_\_\_ My Commission Expires: \_\_\_\_\_  
(print name below signature):

Vicinity Map



**BOUNDARY DESCRIPTION**

A part of the Southwest Quarter of Section 21, Township 7 North, Range 2 East, Salt Lake Base and Meridian, U.S. Survey:

Beginning at the Southwest corner of Rivers Edge Cluster Subdivision, a subdivision in Weber County, Utah, said point being 1329.76 feet South 0°15'10" West along the West Section line from the West Quarter Corner of said Section 21; and running thence South 89°17'29" East 1524.69 feet along the South line of said Subdivision; thence South 8°44'50" East 181.09 feet; thence South 65°35'35" West 210.89 feet; thence North 84°35'44" West 162.96 feet; thence North 55°29'17" West 188.38 feet; thence North 89°17'29" East 488.55 feet; thence South 0°20'42" East 56.88 feet to the North line of that parcel described in Warranty Deed found in Book 871 at Page 588 of Weber County Records; thence North 76°34'50" West along said North line 569.66 feet to the said Section line; thence North 0°15'10" East along said Section line 81.59 feet to the point of beginning.

Also Beginning at a point being 1647.50 feet South 0°15'10" West along the West Section line from the West Quarter Corner of said Section 21; and running thence South 0°15'10" West 218.60 feet along said Section line; thence South 88°29'21" East 266.11 feet; thence North 0°15'10" East 162.20 feet; to the South line of that parcel described in Warranty Deed found in Book 871 at Page 588 of Weber County Records; thence North 76°34'50" West along said North line 273.23 feet to the point of beginning.

Contains 318,182 s.f. or 7.30 Acres

**NARRATIVE**

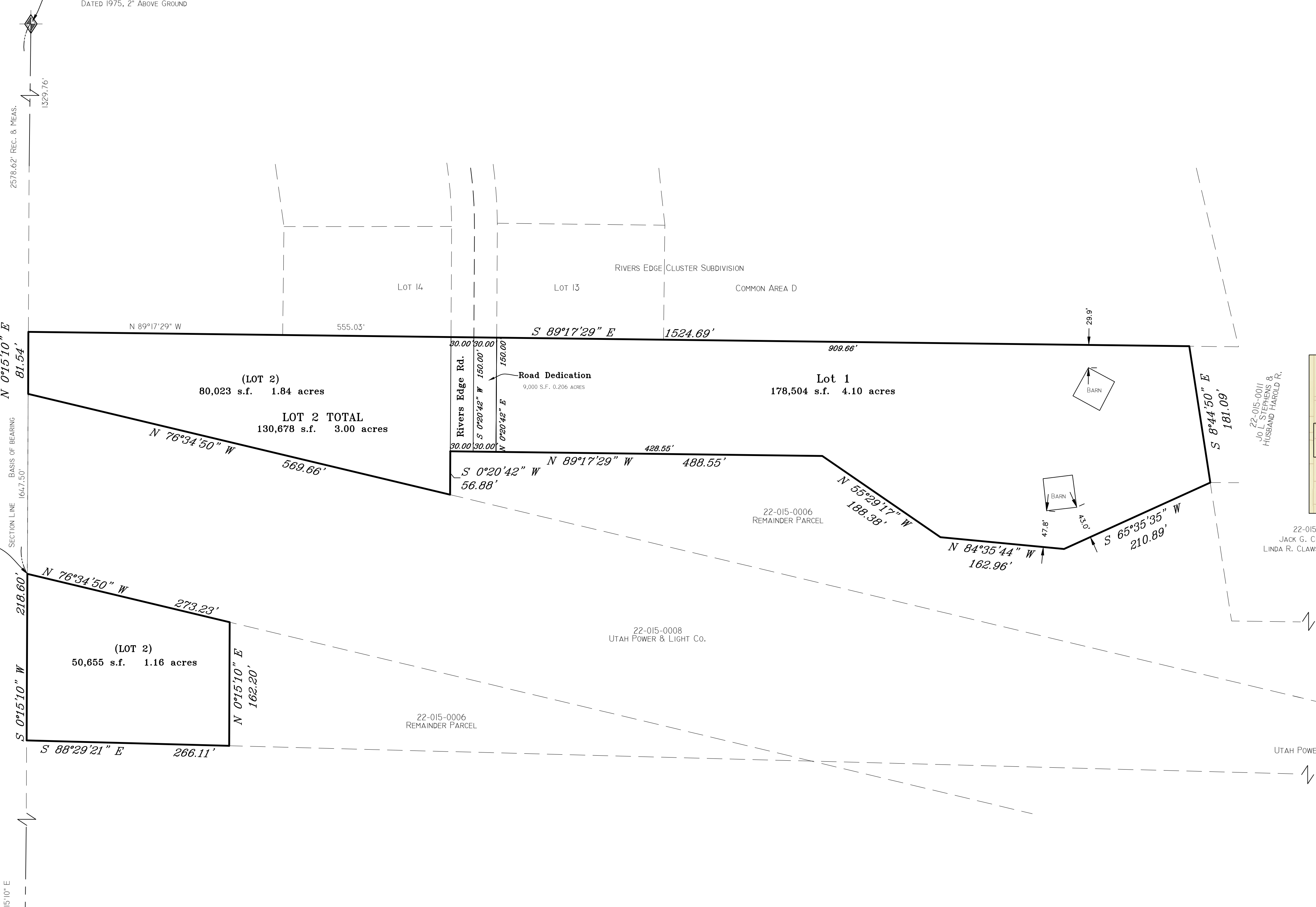
The purpose of the survey  
The basis of bearing of bearing is as described in the description.

basis on which the lines were established  
found monuments  
deed elements that controlled the boundaries

Documents used or reviewed in this survey are, but not limited to, the following:

FOUND WEBER COUNTY 3" BRASS CAP MON.  
WEST QUARTER CORNER  
SEC 20, T7N, R2E, SLB&M  
DATED 1975, 2" ABOVE GROUND

FOUND WEBER COUNTY 3" BRASS CAP MON.  
SOUTHWEST CORNER  
SEC 20, T7N, R2E, SLB&M  
DATED 1981, 3" ABOVE GROUND



**WEBER-MORGAN HEALTH DEPARTMENT**

I hereby certify that the soils, percolation rates, and site conditions for this subdivision have been investigated by this office and are approved for an site wastewater disposal systems. Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**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\_\_\_\_.

**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\_\_\_\_.

**WEBER COUNTY SURVEYOR**

I hereby certify that the Weber County Surveyor's Office 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 executed this plat from the responsibilities and/or liabilities associated therewith. Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**WEBER COUNTY COMMISSION ACCEPTANCE**

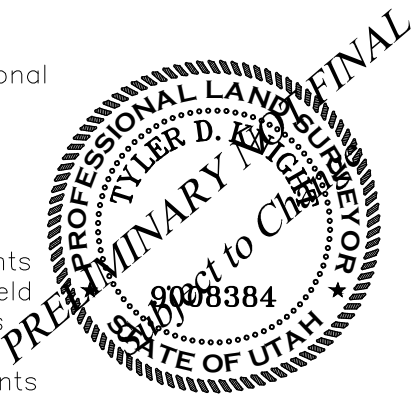
This is to certify that this subdivision plat, the dedication of streets and other public ways and financial guarantee of public improvements associated with this subdivision thereon are hereby approved and accepted by the Commissioners of Weber County, Utah this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**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\_\_\_\_.

**SURVEYOR'S CERTIFICATE**

I, Tyler D. Knight, do hereby certify that I am a professional land surveyor in the State of Utah and hold license no. 9008384-2201 in accordance with Title 58, Chapter 22 known as the Professional Engineers and Professional Land Surveyor's Licensing Act, have made a survey of the property(s) shown hereon in accordance with UCA 17-23-17, verifying measurements, and placing monuments as represented. That this plat was prepared from the field notes of this survey and from documents and records as noted hereon. I further certify that, to the best of my knowledge and belief, all lots meet the current requirements of the Land Use Ordinance of Weber county.



<p><b>Landmark Surveying, Inc.</b> A Complete Land Surveying Service www.LandmarkSurveyingUtah.com</p> <p>4646 South 3500 West - #A-3 West Haven, UT 84401 801-731-4075</p>		<p>Weber County Recorder</p> <p>Entry no. _____</p> <p>Fee paid _____</p> <p>Filed for record and recorded ____ day of _____, 20____.</p> <p>at _____</p> <p>in book _____ of official records, on page _____</p> <p>County Recorder: Leann H Kilts</p> <p>By Deputy: _____</p>
<p><b>DEVELOPER:</b></p> <p>Address: _____</p> <p>1</p>	<p><b>Subdivision</b></p> <p>xx 1/4 of Section xx, Township x North, Range x Xxst, Salt Lake Base and Meridian.</p>	<p>Revisions</p> <p>DRAWN BY: ...</p> <p>CHECKED BY: ...</p> <p>DATE: NUMBER</p> <p>FILE: NUMBER</p>