



# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on a variance request for a new dwelling to encroach up to nineteen (19) feet into the required seventy-five (75) foot year around stream corridor setback on Lot 6 of Hidden Oaks at Wolf Creek Subdivision.

**Agenda Date:** Thursday, February 27, 2014

**Applicant:** Elias Harik

**File Number:** BOA 2014-01

### Property Information

**Approximate Address:** 5001 Fairways Drive; Eden UT

**Project Area:** 21,292 Sq.-ft

**Zoning:** Forest Residential Zone (FR-3)

**Existing Land Use:** Vacant lot

**Proposed Land Use:** Construction of a new single-family dwelling

**Parcel ID:** 22-209-0006

**Township, Range, Section:** T7N, R1E, Section 22

### Adjacent Land Use

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

### Staff Information

**Report Presenter:** Steve Parkinson  
sparkinson@co.weber.ut.us  
801-399-8768

**Report Reviewer:** JG

## Applicable Ordinances

- Weber County Land Use Code Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-3)
- Weber County Land Use Code Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands Overlay Districts)
- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)

## Background

Consideration and action on a variance request for a new dwelling to encroach up to nineteen (19) feet into the required seventy-five (75) foot year around stream corridor setback on Lot 6 of Hidden Oaks at Wolf Creek Subdivision. The lot has a total area of 21,292 Sq.-ft. When the subdivision was approved in 2003 there was a setback requirement from the stream high water mark of fifty (50) feet, which was identified on the original plat (see exhibit "C"). In 2008, a new sensitive lands ordinance was created (Title 104, chapter 28) that required an even larger setback of seventy-five (75) feet from the high water mark for year around streams. The setbacks for the FR-3 zone are = Front 25', Side(s) 8'/10'; Rear 30'.

The applicant has arranged the home on the property in such a way to limit the encroachment into the stream corridor setback to nineteen (19) feet and that no other setback requirements are being encroached upon. Staff has reviewed other arrangements (layouts for the house) that would not encroach into the stream corridor and without also asking for a variance for encroachment into the other setbacks. After many attempts, staff has confirmed that the applicants proposed layout is the best to minimize the encroachment on all required setbacks, including the stream corridor setback.

## 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 Zoning Ordinance. 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 Zoning Ordinance.*
  1. *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.*
  2. *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.*
- 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.*

The applicant has submitted a narrative addressing the above criteria, which is attached as Exhibit "A". Staff's analysis and findings are discussed below.

- a. Based on the odd shape of this property and the additional setback requirements described above, it is unnecessary to strictly enforce the seventy-five (75) foot stream corridor setback requirements. Literal enforcement of this requirement would place an unreasonable hardship on the applicant by not allowing a dwelling to be built. While other properties in this area have similar hardships associated with steep topography, many lots within the subdivision are deeper thus giving them more room to accommodate the increased setback that occurred several years later.
- b. The special circumstances attached to this property are the physical attributes of the property associated with the odd shape of the lot, and the increased stream corridor setback imposed on the property years after it was platted.
- c. The physical constraints of the property (lot shape) along with the increased stream corridor setback requirements would deprive the applicant of the ability to build a dwelling if the setback requirements are strictly enforced. Single-family dwellings are allowed in the FR-3 Zone, other properties in this area have dwellings, and the applicant will be denied a right to build that others have built.
- d. The General Plan will not be adversely affected by this variance request because single-family dwellings are called out for this area, and that is what is being proposed.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. Approval of the variance allows the applicant to build a dwelling.

## Conformance to the General Plan

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

## Conditions of Approval

- Meet all other applicable County review agencies requirements.
- Obtaining a land use permit and a building permit prior to construction.

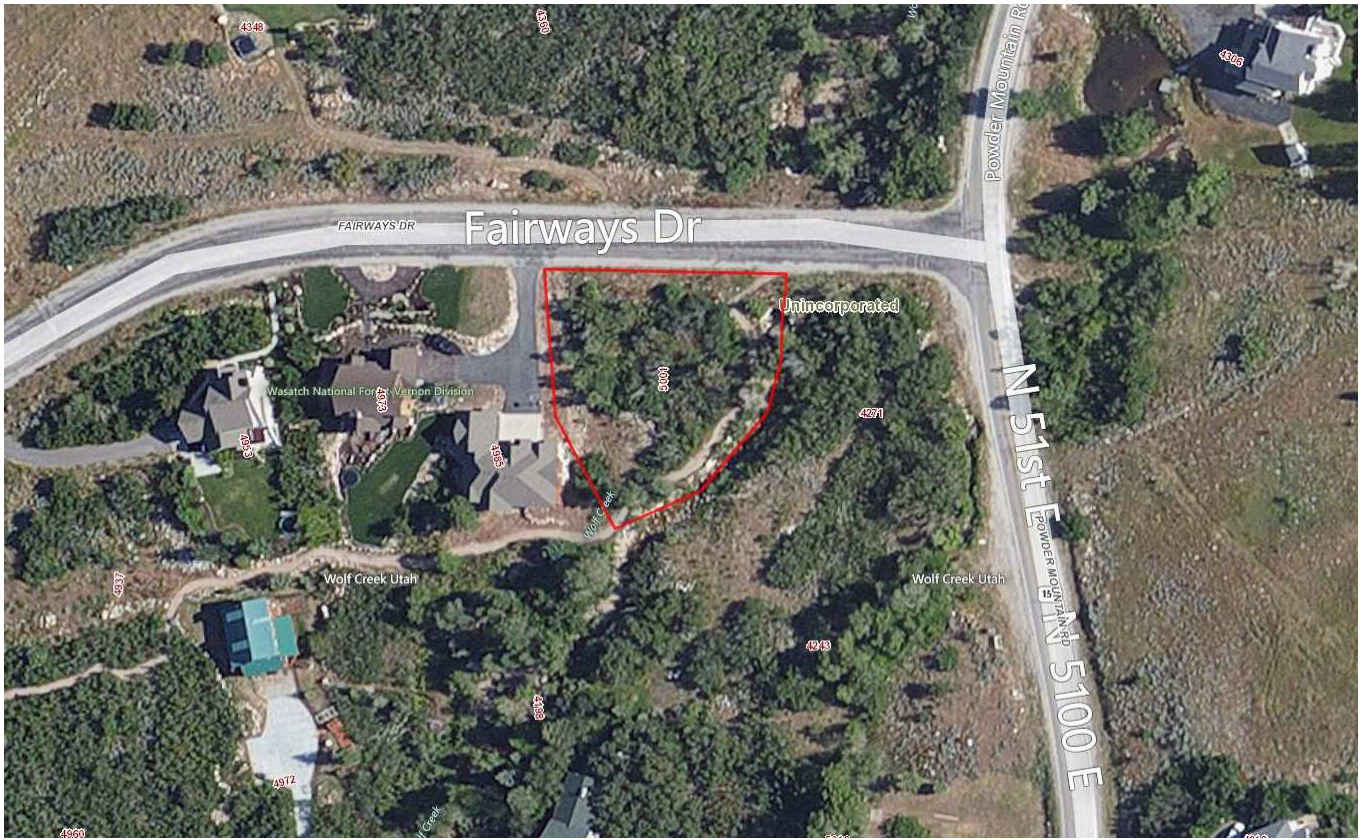
## Staff Recommendation

Staff recommends approval of the variance for a new dwelling to encroach up to nineteen (19) feet into the required seventy-five (75) foot year around stream corridor setback on Lot 6 of Hidden Oaks at Wolf Creek Subdivision, based on it's compliance with the applicable variance criteria discussed in this staff report.

## Exhibits

- C. Applicant's Narrative      B. Applicant's Site Plans      C. Hidden Oaks at Wolf Creek subdivision recorded plat

# Location Map



## Exhibit "A"

### Applicant Narrative

Please explain your request

The purpose of this application is to be granted a variance due to undue hardship caused by the 75' Seasonal Stream Corridor Setback (SSCS) for the property at 5001 Fairways Dr, Eden, UT 84310. The proposed design of the home meets all required Weber County setbacks and has been placed in a manner to encroach minimally into the SSCS. The shape of this particular property creates an irregular building envelope which is further hindered by the SSCS. When this property was first subdivided, the SSCS was not in existence and likely not a consideration. Had it been a consideration at the time when the property likely would have been platted differently as to allow a better property shape upon which to build on.

### Variance Request

Explain how the variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.

The variance will not substantially affect the comprehensive plan of zoning in that it meets all of Weber County's typical ordinances regarding setbacks, size and mass. The general plan will not be contrary to public interest in that the home is designed to take into consideration as much of the properties buildable area as possible. Of the home total developed area we are requesting a variance to allow less than 400 sq.-ft of developed area to encroach into the SSCS. A review of sheet "C1.2 – Site Plan Shaded" (Exhibit "B-1") shows to corner of the home and the areas of the home that encroach into the SSCS. The solid shaded areas are enclosed areas of the home and the cross hatch area is open covered veranda area.

### Variance Request (continued...)

List the special circumstances attached to the property covered by the application which do not generally apply to the other property in the same zone.

For demonstration purposes I have attached site plans for comparison review. For the comparison I have used the 50' rear setback for all the calculations. The first illustration is the "Typical Site Plan" (Exhibit "B-2") and shows a 110' wide x 193.55' deep (21,291 sq.-ft) with the same setbacks as is required for the parcel in this matter. The net building area is 10,906 sq.-ft. The Fairways property by comparison contains only 7,582 sq.-ft of buildable area as can be seen on sheet "C1.3 – Site Plan Net Area" (Exhibit "B-3"). There is 3,324 sq.-ft less than a standard property of the equal size and setbacks. This is a direct result of the very irregular shape of the property. The variance is essential to the enjoyment of this property. The property owner in this instance is one who believes that his home will be an asset to the community and will fit in harmony and style with his fellow neighbors. The home has been designed with the owner's minimal area needs for a one story home.

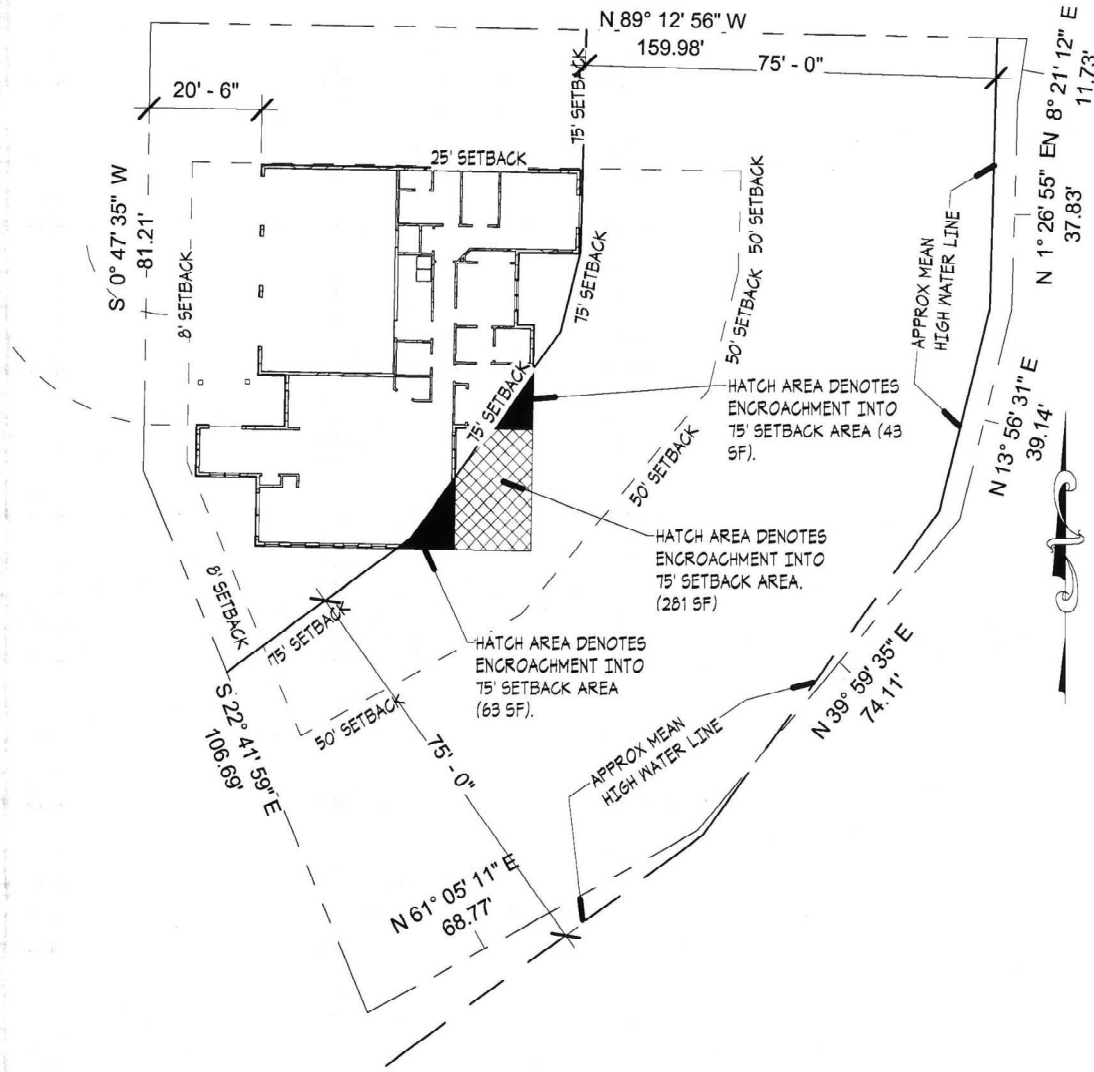
Based upon the previously stated special circumstances, clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.

Variance Request: We request that a variance be granted based on the determination that the 75' SSCS encroaches onto this property with adverse effects. This property is composed of 8 separate perimeter lot line segments creating a one of a kind irregular shape. The SSCS covers 14,029 sq.-ft of the 21,291 total sq.-ft of this property area of which we would like to encroach into it with less than 400 sq.-ft of the proposed home or less than 3% of its area.

## Variance Request (continued...)

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

The special circumstances in this matter are not considered to be self-imposed as the design of the home has utilized all of the area available on the property. The size of the home which is 2,399 sq.-ft of living area is in my opinion a small home compared to what is typically requested and even at that size it does not fit on a one half acre lot. All considerations have been taken into account and the home situated on the property to minimally encroach into the SSCS. The home has been designed as small as possible to maintain the majority portion of the house outside the SSCS. The home meets all other criteria set forth by Weber County rules and regulations. It is confirmed by the site plan demonstration that the home has been laid out in a manner to effectively stay out of the SSCS. Of the homes overall 2,399 sq.-ft living area, 106 sq.-ft of enclosed area and 281 sq.-ft of open area are what is being requested to be granted this variance.



1 Site Plan With Shading 1-30  
1" = 30'-0"

**LUNDIN DESIGN GROUP**

2485 GRANT AVENUE, SUITE #212 - OGDEN, UT 84401  
P: 1 (801) 375 - 1560 F: 1 (801) 375 - 1561

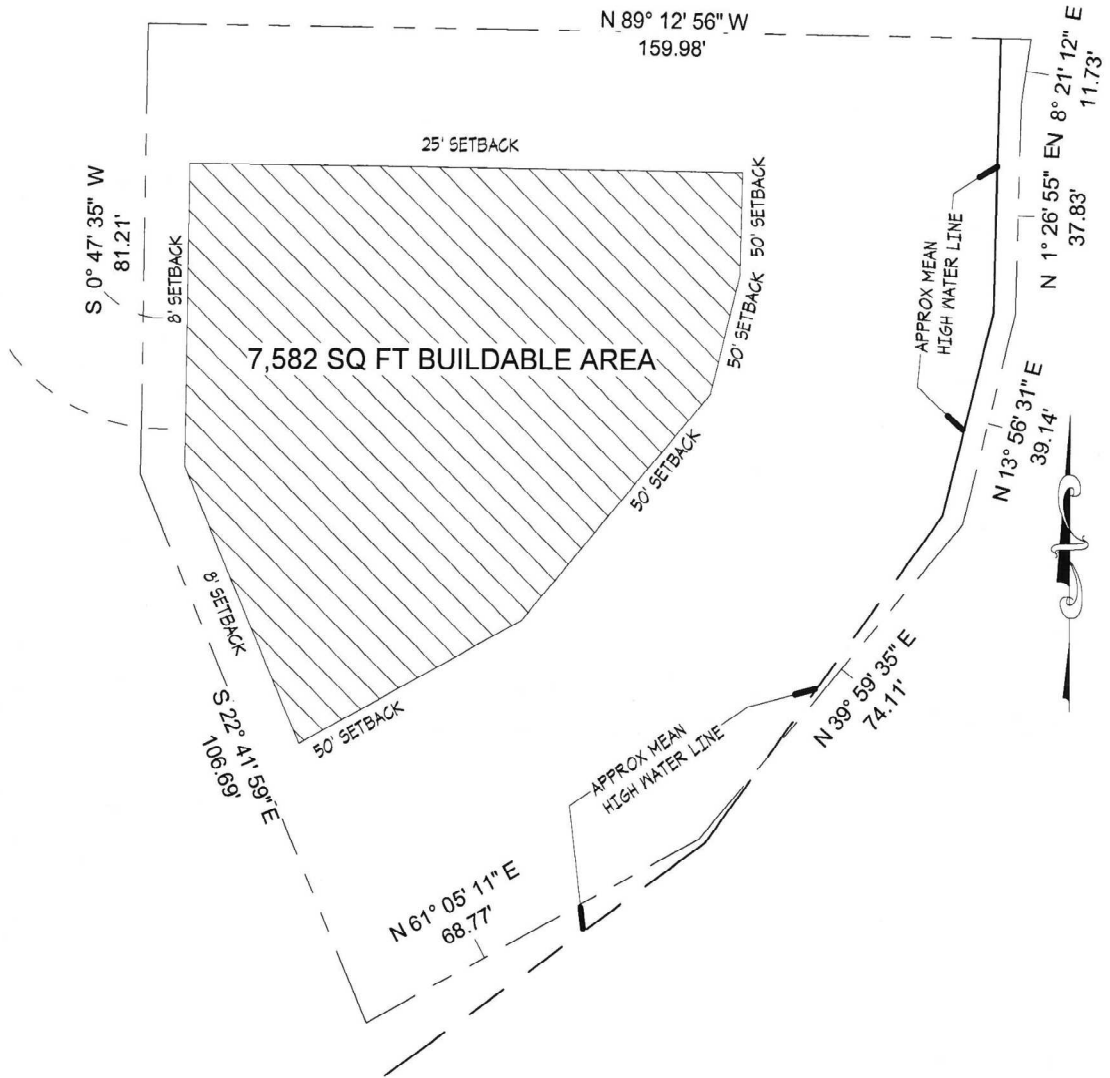
DESIGN

Eli Harik  
The "69" er

Site Plan Shaded

Project number	Project Number
Date	02/04/2014
Drawn by	Karl Lundin
Checked by	Karl Lundin

**C1.2**  
Scale 1" = 30'-0"



1 Site Plan Net Area 1-30  
1" = 30'-0"

**LUNDIN DESIGN GROUP**

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DESIGN

Eli Harik  
The "69" er

Site Plan Net Area		C1.3
Project number	Project Number	
Date	02/04/2014	
Drawn by	Author	
Checked by	Checker	
Scale		1" = 30'-0"

PART OF THE NW 1/4 OF SECTION 22, T.7N., R.1E., S.L.B. & M.  
**HIDDEN OAKS AT WOLF CREEK**

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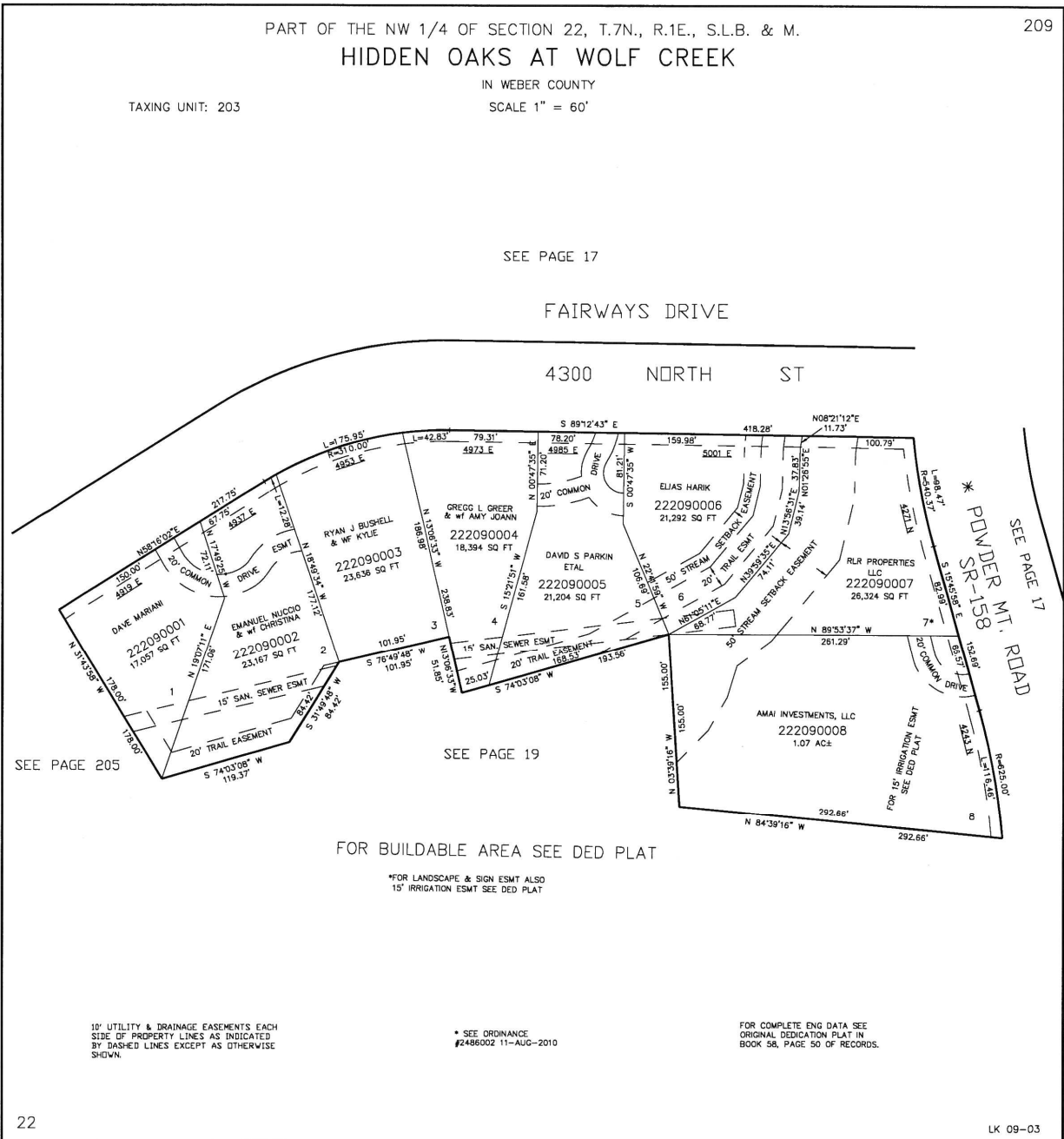
TAXING UNIT: 203

IN WEBER COUNTY  
 SCALE 1" = 60'

SEE PAGE 17

FAIRWAYS DRIVE

4300 NORTH ST



SEE PAGE 205

SEE PAGE 19

SEE PAGE 17  
 POWDER MT. ROAD  
 SR-158

FOR BUILDABLE AREA SEE DED PLAT

\*FOR LANDSCAPE & SIGN ESMT ALSO  
 15' IRRIGATION ESMT SEE DED PLAT

10' UTILITY & DRAINAGE EASEMENTS EACH  
 SIDE OF PROPERTY LINES AS INDICATED  
 BY DASHED LINES EXCEPT AS OTHERWISE  
 SHOWN.

\* SEE ORDINANCE  
 #2486002 11-AUG-2010

FOR COMPLETE ENG DATA SEE  
 ORIGINAL DEDICATION PLAT IN  
 BOOK 58, PAGE 50 OF RECORDS.