

Friday, September 10, 2021



## BOARD OF ADJUSTMENT

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### MEETING AGENDA

**Thursday, September 16, 2021  
4:30 p.m.**

- *Pledge of Allegiance*
- *Roll Call*

#### Regular Agenda Items

**1. Minutes:** Approval of the May 27, 2021, July 8, 2021, and July 22, 2021 meeting minutes.

**2. BOA 2020-04:** Consideration and action on an updated request for a 19-foot variance from the rear yard setback in the FR-1 zone.

***Applicant: Doug Neilson, Staff Presenter: Scott Perkes***

#### Adjournment

*The Board of Adjustments meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1<sup>st</sup> Floor,  
2380 Washington Blvd., Ogden, Utah.*

*&*

*Zoom Video Conferencing at the following link <https://us02web.zoom.us/j/81630727729> .*

***In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the  
Weber County Planning Commission at 801-399-8761***

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**Minutes for the Board of Adjustments meeting of May 27, 2021, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 p.m.**

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**Members Present:**        **Kevyn Grimes – Acting Chair**  
                                  **Bryce Froerer**  
                                  **Laura Warburton**  
                                  **Rex Mumford**

**Staff Present:** **Charlie Ewert, Principle Planner; Tammy Aydelotte, Planner II; Scott Perkes, Planner III; Brandan Quinney, Legal Counsel; Angela Martin, Secretary**

### **Pledge of Allegiance**

### **Roll Call**

Charlie Ewert states that he will be covering for Director Grover in this meeting.

### **1. BOA #2021-05 Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1st Amendment Subdivision (CUP 2021-03) located at 3563 North Creekside Way**

Tammy Aydelotte states that this is an appeal of an administrative decision that was made by the Ogden Valley Planning Commission on March 23<sup>rd</sup> to deny an application of a conditional use request for a short-term rental in a single-family dwelling. She adds that on page 2 of the packet it goes over the conditional use requirements. This was brought before the Planning Commission. She adds that in case there was some confusion about the decision made by the Ogden Valley Commission, they made a blanket decision for two applications, it may not be clear in the minutes both of the appeals were covered by one motion at that meeting. She adds that short-term rentals are allowed as conditional use in the FR-3 zone. The Board must consider if the Planning Commission erred in their decision regarding this conditional use application.

Mr. Quinney states that conditional use is an allowed use that is allowed even though it may not fit the zoning. It is allowed only if there are conditions that can mitigate any detrimental effects and there are certain standards that will need to be met with that mitigation that will need to be substantial. Certain standards will be discussed that will help decide what conditions may be appropriate and whether those conditions will be substantial to mitigate any detrimental effects.

Laura Warburton states that it is her understanding that it is an allowed use and the Planning Commission can place conditions upon it. Mr. Ewert notes that the state code states “shall be approved provided that” and it goes on to talk about the mitigating circumstances. It used to be more subjective on whether or not it can or cannot be denied. It gave the appearance that the land-use authority has more discretion than it had. Through different court cases and subsequent state code changes. There has to be some compelling evidence that detrimental effects cannot be mitigated

Laura Warburton states that in the Planning Commissions reasoning it stated that it seems very presumptuous using a lot of “ifs”. She states that she feels that they decided that the applicant was guilty already of the detrimental effects. She adds that when the applicant files their application they should know what the requirements are. The Planning Commissions' personal opinions should not be the applicant's concerns. The decision should be based on factual evidence. What is important is if they have a license. When the license is signed they agree to certain things, if those requirements are not followed the conditional use permit can be revoked. She asks what the parking requirements are. Ms. Aydelotte states that they are allowed to park up to three it depends. She notes that some of the driveways allow for on-street parking and some are too narrow. Both applicants indicated that parking would be allowed in the garage. The Fire District has approved and they will look at access. She notes that they have capped the capacity at 10 occupants. Some of the units have 3 or 4 four bedrooms.

Laura Warburton asks what the difference between these two applications is. Ms. Aydelotte states that their requests were for short-term rentals and the requests were identical and located in the same neighborhood. Mr. Froerer notes that both were denied based on parking. He asks if the parking potential was the same Ms. Aydelotte states that this is correct the parking potential is the same.

Laura Warburton asks if the Chair would consider putting the two items together and taking action on both.

**MOTION:** Bryce Froerer moves to combine items BOA #2021-05 Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1st Amendment Subdivision (CUP 2021-03) located at 3563 North Creekside Way and BOA 2021-01 Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1st Amendment Subdivision (CUP 2021-01) located at 3563 North Creekside Way owned by Christian Manion. The allegation is that the Planning Commission erred in its decision to deny the request for a short-term rental into a single motion. Laura Warburton seconds. Motion carries (4-0)

Chair Grimes asks if they should take any public comment. Mr. Quinney states that this is an appeal and the Board must base their decision on the facts presented. Public comments would put the Board in danger of considering facts outside of the record.

Bryce Froerer states there was a comment from the Fire District that they had no issues with the projects. Their review show approval. Ms. Aydelotte states that the Fire District will look at access and occupancy, they look at all of the standards for a potential emergency.

Rex Mumford states that the safety and parking is addressed he has no issues with reversing the decision made but the Planning Commission

**MOTION:** Laura Warburton moves to pass and allow BOA #2021-05 Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1st Amendment Subdivision (CUP 2021-03) located at 3563 North Creekside Way and BOA 2021-01 Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1st Amendment Subdivision (CUP 2021-01) located at 3563 North Creekside Way owned by Christian Manion. The allegation is that the Planning Commission erred in its decision to deny the request for a short-term rental into a single motion, reversing the decision made by the Ogden Valley Planning Commission. This is based on the following conditions 1. A business license shall be obtained prior to the issuance of this conditional use permit. 2. Parking shall occur only in designated areas within the development. This recommendation is based on the following findings 1. The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards. 2. The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished and that they are conditional use permits and the Planning Commission provided no findings that show substantial reasoning to deny both of these property owners the right to use their property as a short term rental. Bryce Froerer seconded the motion. Motion carries (4-0)

**2. Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1st Amendment Subdivision (CUP 2021-01) located at 3563 North Creekside Way owned by Christian Manion. The allegation is that the Planning Commission erred in its decision to deny the request for a short-term rental. Staff Presenter Tammy Aydelotte**

This item was approved as a part of item 1's motion, items 1 and 2 were combined due to the nature of the applications being similar in location and request. See the above motion.

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**3. BOA2021-02: Consideration and action on a request for a 12-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West). Applicant: James DePiano; Staff Presenter: Scott Perkes**

**4. BOA2021-07: Consideration and action on a request for a 34-foot variance to the 50-foot natural ephemeral stream corridor setback for property located at 3488 N. Elk Ridge Trail in Eden. Applicant: Dennis Barrett; Staff**

Scott Perkes states The applicant is requesting a 12-foot 20-foot to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 13-foot 5-foot setback from the front lot line. The applicant feels that a variance is necessary to build their desired home. The applicant cites peculiar circumstances that constrain the lot's buildable area and reduces their ability to build a reasonable home that would match development within the neighborhood (see Exhibit A). The applicant initially submitted a variance request for a 20-foot setback. This request was reviewed by the BOA during their March 18th, 2021 meeting. However, the Board did not believe a variance of this size allowed for adequate separation of the home and potential improvements within the adjacent right-of-way. As such, the Board voted to table the item to allow the applicant to explore options for repositioning or redesign the proposed home that could allow for additional separation and a larger setback. The applicant revised their plans and have resubmitted for an increased setback (12-foot variance equating to a 13-foot setback) as compared to the original request (20-foot variance equating to a 5-foot setback) (see Exhibit G) Planning staff has provided three site plans exhibits to help visualize applicable setbacks and peculiar encumbrances to the property. Exhibit C depicts the minimum zoning setbacks along with the applicable encumbrances. Exhibit D depicts the site should a 12-foot 20-foot variance be granted concerning the proposed single-family residence footprint. He notes that there were some slight modifications to the garage and the driveway. He notes that this applicant was previously approved for a 12 ft. but the applicant did not act on it and it expired. This request is more restrictive.

Rex Mumford asks what the width of the road is. What is the width of the right of way? Mr. Perkes states that he would estimate that it is about 60 ft. Mr. Mumford notes that looking at the photo with the 3 cars parked in the driveway the third is parked in the right of way. Mr. Perkes states that only a car would not be in the right of way. Mr. Mumford notes that the County has a minimum spec for a 66 ft. right of way, the one in question is a private right of way and it is only a 50 ft. He adds that there is not a single vehicle that can completely park in the right of way.

James Depiano states that looking at some of the other pictures the road is private. It will never pass County standards it will remain private. To make substantial improvements. He notes that because of the slope there are already existing culverts and there are already existing driveways with pipes going through. This is not a brand new association, there are quite a few houses that have been built. He notes that one of the major concerns in the area is parking and part of the reason for the request is to allow for parking. He notes that they lose a lot of buildable areas because of the Slow Poke trail. Concerning the snow, in some cases, the snow ends up, up and over the eaves in some seasons. They are concerned about having enough room between Slow Poke and the house for snow and proper drainage in the spring. He adds that from the road to the driveway would be there is a 12 percent grade. The trail is a hardship, the steepness is a hardship, and parking in the community is also a concern.

Rex Mumford states that he does not see anything that has changed that has become a hardship beyond what it was when it was purchased. He adds that he is struggling with the fact that they can't even park a car. It would have to be a small car. A full-sized SUV would be sticking into the right of way. Mr. Depiano states that when the road was paved they left some frontage, but the road is not going to get any wider. They are 40 ft. on one side of the road. They are 36 ft. from the road on one side and 40 from the other. With the steepness of the lot, there is nothing that they can physically do to the road. To widen or improve it. When they bought the lot they were told that the lot has a hardship because of the Slow Poke trail. The house cannot be pushed further back. They have done what they can to keep the house within the limits of the zone as much as possible. They are 36 to 40 from the road physically. Engineering will look at the home once it is built, right now they are looking at the structure and variance.

Laura Warburton asks if Engineering has signed off on this application. Mr. Perkes states that Engineering does not typically look at these types of requests. Mr. Depiano states that this has gone through Hillside review and Engineering has reviewed the plans. He notes that they have applied for a building permit. Laura Warburton states that she appreciates Rex Mumford's comments. It was approved before and she states that she does not understand why the Board is asking for less of the variance. They are not setting precedence and she does not believe that everyone in the area will be asking for a variance. She adds that she is inclined to approve this item.

Rex Mumford states that prior approvals should not direct the Board in their decision. They have had several property owners make comments and state as a part of their reasoning that neighbors have been granted a variance. The Board cannot base their decision on this. He states that he is uncomfortable with the parking issue and the visitor having to park in the road right of way. The right of way is narrow.

Mr. Perkes states that the applicant is stating that because of the layout of the slowpoke trail easement their lot is more encumbered than the surrounding lots.

Mr. Ewert states that this is a conversation worth having because help either the ordinance means something or it does not. Ordinances are supposed to be narrowly tailored to avoid regulatory takings and if the ordinance is applied is regulatory taking in essence occurring. Does it deny the applicant the opportunity to use the land the way that everyone else in the area gets to? Laura Warburton states that they should also be looking at other homes in the area to determine if they are similar in size and if the hardship could be self-imposed. Mr. Perkes states that the surrounding home has a similar footprint. Mr. Ewert states that if the hardship of the applicant is not self-imposed due diligence might have exposed the rest however it is severely complicated by the steepness of the lot. This is a challenge that may or may not have been on the record when the applicant was doing their due diligence. He adds that sometimes they do not fully understand this until an architect and engineer review gets involved. He adds this is a quasi-judicial board and they get to make the judgment. They need to determine if it follows the intent and the spirit of the law. They must take determine if it meets all five of the criteria listed in the staff report. Laura Warburton asks if the applicant has feedback concerning the slope and the garage.

Rex Mumford states that this is one of the more restricting lots and at the of purchase they should not expect that they will be able to build the same as everyone else. Mr. Depiano states that he would be happy to compromise and see if they could fit a vehicle fully on the driveway. There are other houses in the driveways with retaining walls. The County will not take the road and it won't be extended or improved.

Laura Warburton states that there is a hardship and sometimes the applicant cannot do their due diligence until they have bought the lot. She feels that a 10 ft variance would be reasonable. Looking at the right of way and how it is being used, it is hard to tell if it will be expanded in the future or if it will remain private. She adds that he will still need to make adjustments with the house, it is not going to fit.

Rex Mumford asks if this was originally a substandard lot. Mr. Perkes states that this plat was approved well before they were listed as restricted lots. The question did the applicant know about the restriction when he purchased the lot. It does not seem that this is the case.

**MOTION:** Laura Warburton moves to approve BOA2021-02: Consideration and action on a request for a 10-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West). This is based on the following findings, that it is reasonable. The landowner has a lot that is substantially hinder lot. Bryce Froerer seconds. Laura Warburton votes aye, Bryce Froerer votes aye, Rex Mumford votes nay, Chair Grimes votes aye. Motion carries (3-1)

**4. BOA2021-07: Consideration and action on a request for a 34-foot variance to the 50-foot natural ephemeral stream corridor setback for property located at 3488 N. Elk Ridge Trail in Eden.**

The applicant is requesting a 34-foot 20-foot variance to the required 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home on the lot. The special circumstance on the property that is driving this variance request is a seasonal/intermittent stream running through the rear of the lot, as shown within a detention basin easement on the Elkhorn Subdivision Ph. 2 subdivision plat. This stream requires a 50-foot setback from its high watermark, thus creating a large encumbrance on the property. 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 watermark of the river or stream. The high watermark shall be determined by Staff Report to the Weber County Board of Adjustment Weber County Planning Division 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 watermark of a natural ephemeral stream. This section of code was first implemented in 2005 through the adoption of Ordinance 2005-19. For reference, the Elkhorn Subdivision Ph. 2 was recorded in July of 1996. As such, this subdivision was originally

designed for adequate sizing and configuration of building lots for residential footprints and did not contemplate additional setback requirements beyond the depicted detention basin easement. For reference, seven total lots within this subdivision (lots 29-34) are affected by this stream. However, only lot 29 (applicant's lot) and lot 33 remain undeveloped. The developed lots 30-32 were either developed before Ordinance 2005-19 being adopted or were permitted without going through the variance process. The granting of a 34-foot 20-foot variance would allow the applicant to build a home within 16-feet 30 feet of the stream's high watermark. When the original variance request was submitted, a high watermark was incorrectly depicted on a site plan submitted by the applicant's builder. Per this erroneous site plan, the applicant's proposed building plans only necessitated a 20-foot variance to contain the home's foundation walls and an exterior deck's footings 30 feet away from the high watermark. However, once excavation of the lot was underway, the Building Inspection department notified the Planning and Engineering Divisions that the new setbacks (30-feet) allowed under the approved variance appeared to have encroached. Upon investigation, it was found that the home was properly placed on the lot per the front and side setbacks. However because the high watermark was incorrectly depicted on the original site plan, the rear of the home was several feet closer to the stream than was allowed by the modified setbacks. Unfortunately, the Building Inspection Department found that the home and deck footings were placed outside of the storm drain easement that is depicted on the plat. As such, the Building Department allowed the applicant to pour the home's foundation footings and walls. However, they requested that the exterior deck footings be postponed until Planning and Engineering had a chance to inspect the site. Upon inspection, Engineering verified the high watermark to be within 16-feet of the rear-most deck footing and within 22- feet of the rear-most corner of the home's foundation wall. Due to these measurements, the applicant has re-submitted to amend their original variance request to allow for a 34-foot variance to the 50-foot setback.

Rex Mumford asks if this stream is regulated upstream. Mr. Perkes states that it is and it is a natural drainage. Mr. Mumford states that the applicant is not asking to go outside of the easement.

**MOTION:** Rex Mumford moves to approve BOA2021-07: Consideration and action on a request for a 34-foot variance to the 50-foot natural ephemeral stream corridor setback for property located at 3488 N. Elk Ridge Trail in Eden. This is based on the findings that it is already under construction to stop it at this point would impose a hardship and that the stream is man-made. 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 ephemeral stream and its required 50- foot setback from high watermarks. As mentioned above, this setback requirement was adopted 9 years following the recording of the associated Elkhorn Subdivision Ph. 2. As such, the lot was not designed during the subdivision process to accommodate additional setbacks to the ephemeral stream. The stream's 50-foot setbacks from high watermarks, coupled with the required structural setbacks of the RE-15 zone, significantly reduces the lot's developable area (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 RE-15 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 detention basin easement, as was originally required at the time of subdivision. Laura Warburton seconds. Motion carries (4-0)

**MOTION:** Laura Warburton moves to adjourn. Bryce Froerer Seconds. Motion carries (4-0)

**Adjournment: 6:00pm**

**Respectfully submitted,**

**Marta Borchert**

**Minutes of the Board of Adjustments meeting of July 8, 2021, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1 Ogden UT at 4:30 pm & via Zoom Video Conferencing.**

**Member Present:** Jannette Borklund – Chair  
Neal Barker  
Rex Mumford

**Staff Present:** Steve Burton, Principle Planner; Felix Lleverino, Planner II; Chris Crockett, Legal Counsel; Marta Borchert, Secretary

- Pledge of Allegiance
- Roll Call

Steve Burton states that Director Rick Grover is out of town and he will be taking his place.

**1. Minutes: April 22, 2021:** minutes for April 22, 2021 were approved as presented.

**MOTION:** Rex Mumford moves to approve the minutes as presented. Neal Barker Seconds. Motion carries (3-0) Minutes were approved as presented.

**2. BOA 2021-08 Consideration and action on a request for a 25-foot variance to the 75' stream corridor setback for Lot 7 of Hidden Oaks at Wolf Creek.**

Felix Lleverino states that this is a request for a variance. Any Request or a variance that is written into the standard code. In this case, the variance request is from the stream corridor setback standard. He notes that the Ogden Valley sensitive lands code lays out the minimum distances from the high watermark of the stream. In this case, it is a year-round stream it is called Wolf Creek and the minimum distance from the high watermark is 75 ft. the applicant is requesting to reduce the minimum setback down to 50ft. Neal Barker asks if it has always been 75 ft. He asks if it was 50 ft. prior. Mr. Lleverino states that it was 50 ft. at some point this is the way it was drawn on the dedication plat when it was recorded. Neal Barker asks when the change was adopted. Steve Burton states that this subdivision was recorded a few years before the stream corridor setback ordinance was recorded. Previously there was a 50 ft. setback for this stream. The ordinance was adopted in 2005 at this point it changed from 50 to 75 feet from the high watermark. Neal Barker asks if the plat was recorded before 2005. Mr. Burton states that it was recorded on September 12, 2003. He adds that the stream corridor code does not offer any exceptions for previously existing lots. Mr. Lleverino states that the reason that the applicant requested this variance is to build a home. One of the duties of the Board of Adjustments is to hear and review variances based on the 5 criteria listed in the staff report. All 5 criteria must be met before the Board of Adjustments can approve the variance. If the applicant can show literal enforcement of the ordinance it would cause an unreasonable hardship for an applicant that is not necessary to carry out the general plan. If The Board determines that all 5 criteria are met the board may to choose grant the request variance. It is recommended by staff that before any decision the Board discusses and considers each of the criteria. As they relate to the site and specific proposal.

Chair Borklund asks if the house was rotated and moved forward would it need the full 20 ft. setback. She states that they could reduce it a little bit but not the full amount. She adds that it does not line up with the street it is possible that it could meet the setback requirement.

Rex Mumford asks if the stream is year-round. He asks if this stream is currently flowing. Mr. Lleverino states that this is a good question. He adds that the planning staff has maps that they refer to. The County engineer goes out to determine where the high-water mark will be. Rex Mumford states that there are some streams in the upper valley that are depicted as year-round and they are not. He states that it seems that there is some self-imposed factor. He states that the size of the house and the configuration can be changed. Mr. Burton states that according to the map and the ordinance this is a year-round stream. Mr. Mumford states that acting on this item tonight might be premature if engineering has not had a chance to look at it and establish the high-water mark.

Mr. Burton states that Engineering has looked at this item and the applicant has submitted a building permit. The Engineers have approved this building permit subject to the variance.

Neal Barker asks if it is lot 6 that has been built and is next to the applicant's lot. He notes that Engineering must have already decided where the high-water mark is if the neighbor's house has already been built. He asks if the neighbor's house was built before 2005 as well. Mr. Lleverino states that the neighbor's house was built in 2020. He notes that lot 8 was also granted a variance.

Chair Borklund states that the intent of the ordinance was likely public safety. She adds that if the stream is a year-round stream it makes a difference. Rex Mumford states that the purpose is for riparian habitat and to protect the stream corridor encroachment. Mr. Burton states that I had to do with the riparian habitat not as much the public safety.

Rex Mumford asks if this was a new purchase since 2005, if so this lot was purchased with the knowledge that there is a 75. Ft. setback. Mr. Lleverino states that he is not sure when it was purchased by Mr. Bracken.

Neal Barker states that by not granting the variance are they depriving the property owner of the privileges granted to the other property owners. Chris Crockett states that they cannot base their decision on what has previously been done for other property owners.

Chair Borklund states that the property right to build is a given but the size and orientation can be modified. The intent of the ordinance needs to be satisfied.

Rex Mumford states that each lot is independent and they need to look at each lot individually. They need to look at lot 7 and look at it independently from the surrounding lots. Chris Crockett states that from a legal perspective they are confined to the application and what is particular to this specific property.

Neal Barker asks if any neighbors opposed this. Mr. Lleverino states that he did receive one phone call from a nearby resident, but he did not get a chance to follow up. He adds that if they had a concern they are welcome to attend the meeting public notice was sent out and a Zoom link was shared.

Scott Bracken states that concerning the orientation of the house lots 7 and 8 are required by UDOT to have a common driveway. This is one reason for the angle. Because there is a small buildable area they designed the home specifically for the lot. He states that there was some other thing that was taken into consideration. He adds that the reason for the size was that it has to be approved by Wolf Creek. He notes that lining the house the street puts it too close to the street and UDOT won't approve it. The other thing to consider is that not only is there a 50 ft. setback from the high water mark there is a vertical rise of 15ft evenly from the high watermark. The geological study showed it is not a hazardous zone. The stream does not run year-round. It was shut down for at least a month because of the drought. It shuts down every year around July. Chair Borklund asks what the stream is fed by. Mr. Bracken states that it is fed by snowmelt. Rex Mumford asks if this is because it is diverted. Mr. Bracken states that it is diverted for irrigation. It has been dry now for 3 or 4 weeks. He states that without the home he does not feel that it is possible to build a home there to meet Wolf Creeks requirements. Neal Barker asks what the square footage of the home is. Mr. Bracken states that it is 2236. He adds that it is a rectangle home 60x40. He adds that UDOT will not allow him a private road for his driveway it has to be shared.

Rex Mumford states that the placement would put the driveway at a sharper angle, he notes that part of this is that he has a 4 car garage. The house could be reoriented and there would be plenty of access to turn in. Mr. Bracken states that the other reason for this placement is that it would give him a better view. He adds that if he changes the orientation would make things very tight.

Chair Borklund asks if any members of the public would like to speak. There is none.

Neal Barker asks why the code was changed. He asks if this lot meets the requirements before the code change. He asks if the change was meant to be a fix-all. Mr. Burton states that he is not sure about the intent of the change but states that they could look at minutes and see what was discussed.

Rex Mumford states that looking at the stream setbacks the challenge is whether it is a year-round stream. This is something that the applicant would have to challenge. Rather than seeking a variance, they could challenge the engineering maps. Mr. Burton states the applicant could challenge the engineering maps, and the County would have to come up with a new map. Mr. Mumford states that he feels the hardship is self-imposed. The applicant mentioned the view. The view is not a protected right. He adds that if this was a two-car garage the angle would not be as steep. The request could be 10 ft. less or 8 ft. less. There seem to be some self-imposed aspects. He states that it is confusing that Wolf Creek wants the homes to be built a certain way and why did Wolf Creek approve the lots in the first place if a certain size house needs to be built and it won't fit on the lot. Buying a lot in Wolf Creek after 2005 the lot owner needs to know what their limitations are, they have to do their due diligence.

Neal Barker asks how this home compares in size to the other homes in the area. Mr. Lleverino states that it looks to be around the same size as the surrounding lots.

Rex Mumford states that they should have the same opportunities as the other owners in the area to build a home, they do not want to deny this from the applicant, but the four-car garage and the view are self-imposed aspects.

Chair Borklund states that there are some special circumstances because it is an odd-shaped lot. She states that the slope is a possible hardship, but there are five criteria that they have to meet and they need to make sure they meet all five criteria.

Neal Barker states that if the applicant were to orient the house slightly differently he could still have a great view, but he would still need a variance. There is no way that the house would fit within the 75 ft. setback. He adds that he is worried that the applicant is being punished because he likes the view. This may not be the main focus of the variance request. If there is a slight tweak he still has a view but he is just picking the optimal view.

Chair Borklund states that she might be comfortable granting a variance but maybe not the full variance. She adds that they could table it so that the applicant can come back with other options. She states that she would like the applicant to come closer to meeting the ordinance so that they can protect the stream. Mr. Mumford states the advantage to tabling it is that it allows the applicant to come back to the Board without having to pay the fees. Chair Borklund states that she does not believe that the request should be denied but she is not sure it should be approved either. The property right is still there. Chris Crockett states that in taking the action that follows the middle approach where they might grant some of the variances this reduced the self-imposed approach if there is a self-imposed factor the law requires that the variance be denied and it has to meet all of the criteria. He adds that tabling the item is a good option if the applicant can reconfigure the house and reangle it. If they could preserve something like 60 ft, tabling could be a good option.

**MOTION:** Rex Mumford moves to table BOA 2021-08 Consideration and action on a request for a 25-foot variance to the 75' stream corridor setback for Lot 7 of Hidden Oaks at Wolf Creek to allow the applicant to reevaluate the self-imposed aspect of the application and come back to the Board with a modified site plan that would more closely reflect the intent of the ordinance and try to mitigate the self-imposed aspect. The new site plan should show where the driveway is and how it is connected to the home. Neal Barker seconds. Motion carries (3-0).

**MOTION:** Rex Mumford moves to adjourn. Neal Barker seconds. Motion carries (3-0)

Adjournment: 5:25 pm  
Respectfully submitted,  
Marta Borchert

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Minutes of the Board of Adjustments meeting of July 22, 2021, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 p.m.

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**Members Present:** Jannette Borklund – Chair  
Rex Mumford  
Bryce Froerer

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

- Pledge of Allegiance
- Roll Call Regular

**1. BOA 2021-08 Consideration and action on a request for a 25-foot variance to the 75' stream corridor setback for Lot 7 of Hidden Oaks at Wolf Creek.**

Steve Burton will be presenting the item in Felix Lleverino's stead. Mr. Burton states the item was previously tabled at the previous meeting. This is a request to receive a 25 ft. stream corridor setback in the Wolf Creek area. When this item was last heard the Board of Adjustments unanimously tabled the item so that the applicant could reevaluate the self-imposed hardship aspects and come back with a site plan that would more closely conform with the sensitive lands ordinance the site plan should also show the driveway location and how it is connected to the home. The last time it was submitted there was some thoughts about seeing how far the house could be pushed to the front lot line. Mr. Burton notes that in the revised submittal the applicant did push the home closer to the front lot line, but the house did not change in size. The request is the same. Looking at the drawings the driveway is not very big. He notes that on the subdivision plat there are 25 ft on the neighbor to the souths property the owner will have to use this as access. He adds that the owner is proposing to build within the buildable area on their plat. A year or two after the subdivision was recorded the County adopted the stream corridor setbacks standards. Even though they are proposing to build within their buildable area they are still required to meet the stream corridor setback. The elevation is higher than the stream. He states that staff recommendation is that the variance can be approved if the Board decides that it meets all of the variance criteria.

Rex Mumford states that it appears that some of the surrounding homes have shared driveways he asks if they are restricted lots. Director Grover states he does not believe that they are restricted, they do have the buildable pad. He notes that there are shared driveways in the area. Mr. Mumford states that it is common in the area to have the shared areas. He states that the footprint has been moved but it is still at 50 ft., on the drawing it shows 55 ft. He asks if this is because of the patio. He asks if it is cantilevered or if it has a footprint. Mr. Burton states that the building itself is 55 ft. but the patio needs to be considered. The image shows 55ft to the foundation wall and the patio is within 50 ft. Mr. Mumford asks if part of a home is cantilevered if it is counted if it encroaches into the protection zone. Director Grover states that occasionally the HOA will allow for cantilevers, a lot of the time it is taken into the footprint. Mr. Burton notes that the patio is not cantilevered. Chair Borklund asks if there is any structure with the patio.

Bryce Froerer asks looking at lot 7 how far into the corridor will the house sits. Mr. Burton states that the applicant has stated the stream is below, it is 15 ft. below the house.

Chair Borklund stated that at the last meeting there was some discussion about rotating the house. She asks if this was taken into consideration when the plans were revised. Mr. Burton states that this was discussed but it does not appear that it was rotated. The building was moved up. He adds that it would be up to the applicant to do that.

Rex Mumford asks when the application was submitted. Mr. Burton states that the application was accepted on June 14<sup>th</sup>. Mr. Mumford asks if the stream corridor setback was approved by the County in 2003. Director Grover states that he is not sure about the exact date but this subdivision and the buildable area and plat were approved before that. Chair Borklund states that if the home were built at the time it was recorded it would be a nonconforming lot. Director Grover states that this is correct.

Darrin Hammond 2225 Washington Blvd, states that he is Scott Bracken's attorney. He states that he would like to address some of the legal issues that have been brought up. He adds that in this case there is compliance because literal enforcement of this ordinance would cause unreasonable hardship, because of the way the home is situated. This is not a self-imposed hardship, it is something that happened because of the shape of the lot and the timing. There is no other way to situate this home even if it is rotated, this would cause problems with the driveway and UDOT. It would have to be 25ft away from the road. This is the best way to situate this home, it is not an overly large home. If this home is not allowed to be built, the property right to build a home cannot be enjoyed. He adds that the General Plan is being followed and the public interest is not affected, there is still 50 ft. between the stream corridor and the home. He notes that the spirit of the land-use code is being observed, Mr. Bracken is the best that he can do to live by the spirit of the land-use code. There is a 15 ft. of elevation and he is allowing 50ft between the home and the stream corridor. Given the circumstances, there is no other way to resolve this other than the Board granting the variance.

Scott Bracken, states that the first plan, the intent was to meet the setbacks and meet the needs of UDOT and meet the guidelines of the buildable area. He states that he went to UDOT to try and get it approved. He notes that off of the corner of his lot, his brother's home is next door and they will need to share the driveway. On the corner of the lot Rocky Mtn. power out two power plants. He notes that he got rejected by UDOT and will have to use a common driveway. He states that he will have a common driveway and will stay within the buildable driveway and leave the 25 ft. front setback. To cut back anywhere else he would have to go outside the boundaries of the buildable area. He notes that the reason for the orientation of the house is to better access the house and the garages.

Bryce Froerer asks about the elevation change from the stream bottom to where the house will sit. Mr. Bracken states that there is a vertical 15 ft. from the high water mark to the low part of the home. Mr. Froerer states that the requirement is 25ft from the road to the home. He asks if based on the diagram this is what is shown. Mr. Bracken states that in doing his due diligence. He looked into everything before the purchase and spoke to someone in the County office to see if there would be anything affecting the home being built. The answer was no at the time. He asks where he would have found that information. There was nothing that indicated that requirement otherwise he would not have purchased the lot. Mr. Froerer asks how often the stream flows. Mr. Bracken states that it flows between October and January. He notes that this year it has been shut off for two months because of the drought.

Rex Mumford asks when the lot was purchased. Mr. Bracken states that he purchased the lot in April. Mr. Mumford asks if when he approached the County the stream setback ever came up. Mr. Bracken states that it did not, if it had he would not have purchased the lot. Mr. Mumford asks if they have approached Engineering. Mr. Bracken states that it has been approved by Engineering. Mr. Mumford states that it seems to him that a home could be built to fit the built lot without the variance. Mr. Bracken states that it would be a very unique home, it would be very narrow and would not be acceptable by the HOA.

Chair Borklund asks if the HOA has building standards for the area. Mr. Bracken states that they do have standards but he is not sure what those standards are. Chair Borklund asks if he can describe the patio. Mr. Bracken states that it is just a concrete patio but there is a deck above it. The deck does have an overhang.

Rex Mumford states that Mr. Bracken indicated that the Planning Office did not inform him about the stream corridor setback. He asks how this is possible. Director Grover states that when an applicant comes in over the counter staff looks at generalities but they do not look deeper into the specific details until a full application is submitted. He notes that the information is open and available to the public. It is up to the applicant to do their due diligence. The staff tries to give the public as much information as possible. Mr. Mumford asks if the stream setback is published somewhere. He asks if he buys a lot, could he easily find that information. Director Grover states that it is easy to find if you know what you are looking for. It is on the Planning site. Mr. Mumford asks if staff shares the opinion that this is a non-buildable lot. Director Grover states that it is not a non-buildable lot but it is more restricted and looking at the configuration compared to the other lots in the area it necks down at the north side. This does provide some constraints that some of the other lots do not have. It is a unique lot. Chair Borklund adds that the buildable area is smaller. Director Grover notes that it is also constrained because it is a corner lot and it has two front yard setbacks.

Rex Mumford asks if it is Engineering that determines the stream setback. Director Grover states that typically they look at Engineering. He notes that the Board gave staff some guidance to look at some alterations to the stream setback. He states that this is something that they are looking into.

Chair Borklund asks if the Army Corp of Engineers regulates the streams. Director Grover states they do work with the Army Corp of Engineers. Mr. Mumford states that he does not believe the Army Corp of Engineers has any jurisdiction. Director Grover states that they usually do not have any jurisdiction, this is usually something that the County Engineers will determine.

Bryce Froerer states it appears that all of the other homes in the area appear to be closer than the 75 ft. Director Grover states that this is correct, he notes that he believes there were some variances granted in that area. It is also possible that some of the homes were built before the ordinance. He does not have this exact information.

Rex Mumford asks who determined that this was a year-round stream versus a seasonal stream. Director Grover states that it is the County Engineer that determines this.

Bryce Froerer asks what the setback would be if the stream was considered a seasonal stream versus a year-round stream. Mr. Burton states that he spoke to the Engineers about this specific application and they were not willing to designate the stream as seasonal but they are comfortable with the requested setback. He notes that it is possible that they made this determination because there are portions of this stream that flow year-round. Mr. Mumford asks if this stream wasn't diverted, would it be a year-round stream. Mr. Burton states that this is correct. Chair Borklund asks if it would depend on the amount of snow that there is in a particular year. She adds that for example this year there is no water because of the drought so it is dry. Mr. Burton states that he is not sure, but he is aware of a group that diverts water from this stream and occasionally the stream dries up.

Rex Mumford states while it seems that the literal enforcement of the land-use code seems that it would cause a hardship. It seems that the hardship is partly self-imposed due to the size and configuration of the home. He notes that if someone purchases a piece of property there is due diligence. He notes that as Director Grover states staff is not able to site every circumstance before an application is filed the information is out there.

Chair Borklund states that someone can call the Planning office and ask what the setbacks are but it is not likely that they will think about the stream corridor setback.

Rex Mumford states that the purpose of the stream setback is riparian. Director Grover states that this is correct it is to protect the riparian watershed.

Steve Burton shows the Board the application and building permit application on Frontier so that they can see Engineering comments and reviews. He notes that the Engineering's review doesn't say anything about the stream. Mr. Mumford states that it does not seem that Engineering approves stream setbacks. Mr. Burton states that the County Engineer determines the high-water mark. He notes that both Engineering and Planning look at the stream setback in their reviews. Chair Borklund notes that it is in the Land-use code so it would be enforced by Planning. Director Grover notes that when a case like this comes up staff will go directly to engineering and consult with them.

Rex Mumford states that he does not understand why Engineering would not change the 75 ft. setback but are okay with the 50 ft. setback request. Director Grover states that this has happened in the past, it is not setting precedence. He notes that he can speak to Engineering and bring back more information on this. Chair Borklund states that in this instance where the stream is lower it might not be as much of an issue. Director Grover states that this could be one reason why Engineering was looking at it this way because it was indicated that there was a 15 ft distance between the high-water mark and the lower level of the house. Mr. Mumford notes that Engineering looks at the safety and stability of the home. They might not look at the riparian habitat. Director Grover states that the reason it is in the land use code is that Planners tend to be more sensitive to those issues. Mr. Mumford states that he is struggling with this because at the last meeting the applicant was asked to come back to the Board with modifications. It does not seem that the applicant did this. There don't seem to be any major changes. He adds that he is not encouraged by what was presented. He states that a lot was purchased in 2021 and the ordinance was passed in 2003 there was some due diligence that was missed and he does not fault Mr. Bracken, but everyone has due diligence. He is not in favor of this because the applicant did not come back with what was asked, which is a reduction to the variance request. To that extent, it is still a self-imposed hardship.

**MOTION:** Bryce Froerer moves to approve BOA 2021-08 Consideration and action on a request for a 25-foot variance to the 75' stream corridor setback for Lot 7 of Hidden Oaks at Wolf Creek. Subject to the conditions and requirements 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 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 done. Listed below is the applicant's argument for the approval of a variance: a. Literal enforcement would cause an unreasonable hardship due to the resulting minimal buildable area, since the last meeting the applicant has shifted the building to be as close to the front lot line as possible. b. The special circumstances that exist on the property are the unusual lot configuration, the 75' Stream Corridor setback that is 25' greater than what is depicted on the dedication plat, and the shared driveway to the south, which requires the southeast side of the building to be pushed more toward the stream. c. Granting the variance would allow the owner to increase the distance of the home and driveway from Powder Mountain Road and increase the amount of natural foliage preserved. d. The 50' setback depicted on the plat for lot 7 of Hidden Oaks at Wolf Creek met the standards at the time of its creation for the preservation of riparian and other natural areas (See page 7 on the 2016 Ogden Valley General Plan). 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 a 50' ft. setback from the stream. And that County Engineering had no objection to the proposal. Chair Borklund seconds. Chair Jannette Borklund votes aye, Bryce Froerer votes aye, Rex Mumford votes nay. The motion fails because there are only 3 members present and a vote with 3 members requires a unanimous vote to approve or deny an application. The request is denied.

Director Grover states that Fall Conference is coming up he will have information sent out in case they are interested in attending. He notes that concerning the Planning Dinner it was decided that there will not be one for 2021 and they can instead look forward to it in January 2021.

Meeting Adjourned 5:45 pm

Respectfully submitted,

Marta Borchert



# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** UPDATED - 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~~ September 16, 2021

**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 an UPDATED variance request for a rear yard setback for a nonconforming and irregularly shaped lot in the FR-1 Zone (see **Exhibit A**). This updated request is for a 19-foot variance from the rear yard setback to allow for an 11-foot setback on a reconfigured one-lot subdivision. Previously the applicant had requested an 11-foot variance from the side yard setback as well as a 19-foot variance from the rear yard setback for one of the lots in a proposed 3-lot subdivision. These originally requested variances were granted by the Board of Adjustment during the June 11, 2020 meeting (see **Exhibit B**).

Following the approval of the side and rear yard setback variances, the applicant proceeded to plat the originally proposed 3-lot subdivision. However, during review of the subdivision, the Weber-Morgan Health Department found that only one 20,000 sq. ft. minimum lot size could be accommodated due to septic permitting constraints. Accordingly, the applicant reconfigured the property into a single lot, rather than 3 smaller lots. This one-lot subdivision was approved and recorded in August of 2021.

Since the original variance requests were granted under a three-lot subdivision configuration, the applicant has been asked by the Planning Division to resubmit an updated variance request to accommodate the same reduced rear yard setback that will be needed to accommodate a single-family residence on the revised 1-lot subdivision.

## Analysis

Per LUC 101-1-7, the newly reconfigured single lot 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.*

This code allowance helps a nonconforming lot with its side-yard setbacks only, and does not help with a reduction to rear-yard setbacks. Due to the unique shape of the lot (wide, but not very deep) the applicant is re-requesting that a variance of 19 feet from the rear setback be granted to facilitate the placement of a single-family residence.

## 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 rear 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 lot, 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 to develop a reasonably consistent residence similar to adjacent property owners.
- 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 re-applying for a variance. Granting this variance will improve the area through the reduction lots, 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.

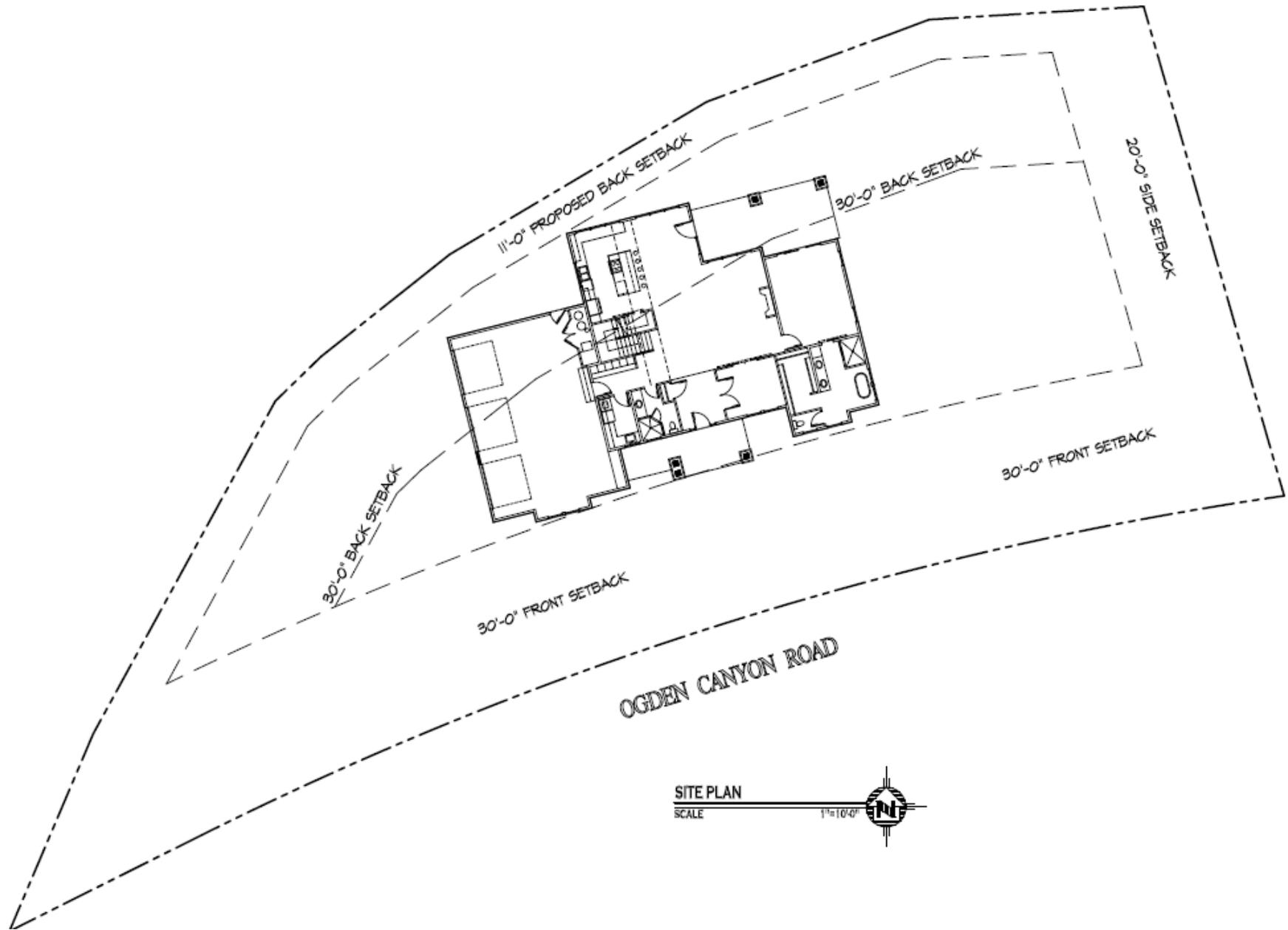
### Exhibits

- A. Updated 1-Lot Subdivision Variance Exhibit
- B. Planning Staff Report (June, 11 2020)

### Location Map 1



Exhibit A: Updated 1-Lot Subdivision Variance Exhibit



SITE PLAN

SCALE

1"=10'-0"



## Exhibit B: Planning Staff Report (June 11, 2020)

To be added in PDF following report review



## Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

### Synopsis

#### Application Information

<b>Application Request:</b>	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.
<b>Agenda Date:</b>	Thursday, June 11, 2020
<b>Applicant:</b>	Doug Neilson, Owner
<b>File Number:</b>	BOA 2020-04

#### Property Information

<b>Approximate Address:</b>	301 Ogden CYN, Ogden, Utah 84401
<b>Project Area:</b>	0.58 acres
<b>Zoning:</b>	Forest Residential Zone (FR-1)
<b>Existing Land Use:</b>	Residential
<b>Proposed Land Use:</b>	Residential
<b>Parcel ID:</b>	20-030-0012, 20-030-0011, 20-030-0010, 20-030-0009, 20-030-0013x
<b>Township, Range, Section:</b>	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

<b>Report Presenter:</b>	Scott Perkes sperkes@co.weber.ut.us 801-399-8772
<b>Report Reviewer:</b>	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:

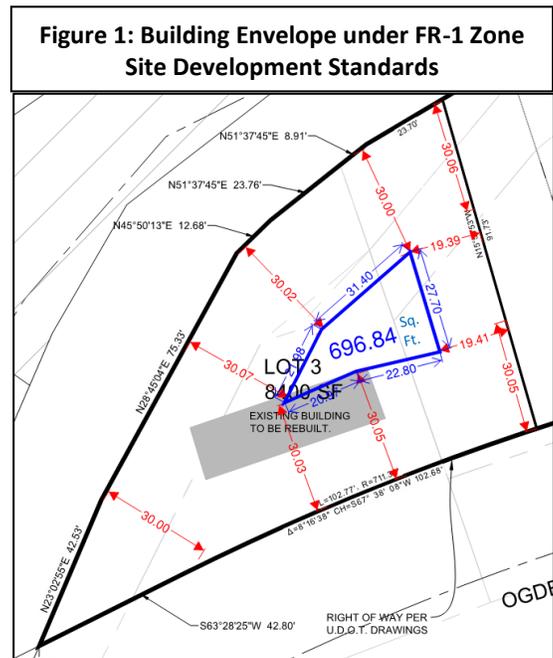
145.47' Actual Width  
 145.47' / 150' (FR-1 zone minimum width) = 0.97 (Reduced side yard setback ratio)  
 0.97 x 20' (FR-1 zone side yard setback minimum) = **19.4'** (reduced side yard setback)

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)
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### 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>	

Existing Measurements		Required Measurements (Office Use)	
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 of Doug Neilson]
(Property Owner)

(Property Owner)



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

[Signature of Notary]
(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)



431- 5.10

# SUBDIVISION OF BLOCK 10 OF THE HERMITAGE

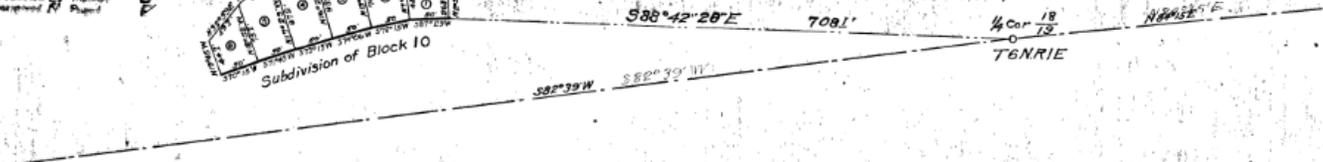
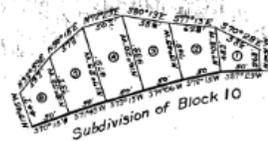
JUNE 1921 56

SCALE 1" = 100'

STATE OF UTAH  
County of Weber  
Filed for record in accordance with  
Section 24, A. U. C. 22  
of 1906, of the 14, and 15, of 1906  
in Book 8 Page 57  
*Glenn A. Fiel*  
County Surveyor



Recorded Abstracted  
Abstracted Indexed  
County of Weber



**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*

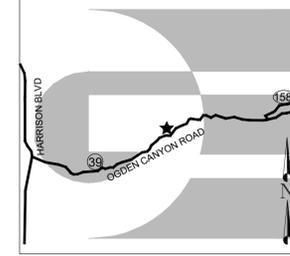
Personally appeared before me, this 13<sup>th</sup> day of January 1922, Harriet S. Wilson, one of the co-owners, who duly acknowledged that she signed the foregoing DEDICATION.  
*Heir Blackwell*  
Notary Public in and for the County of Los Angeles State of California

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

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°25'13" 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

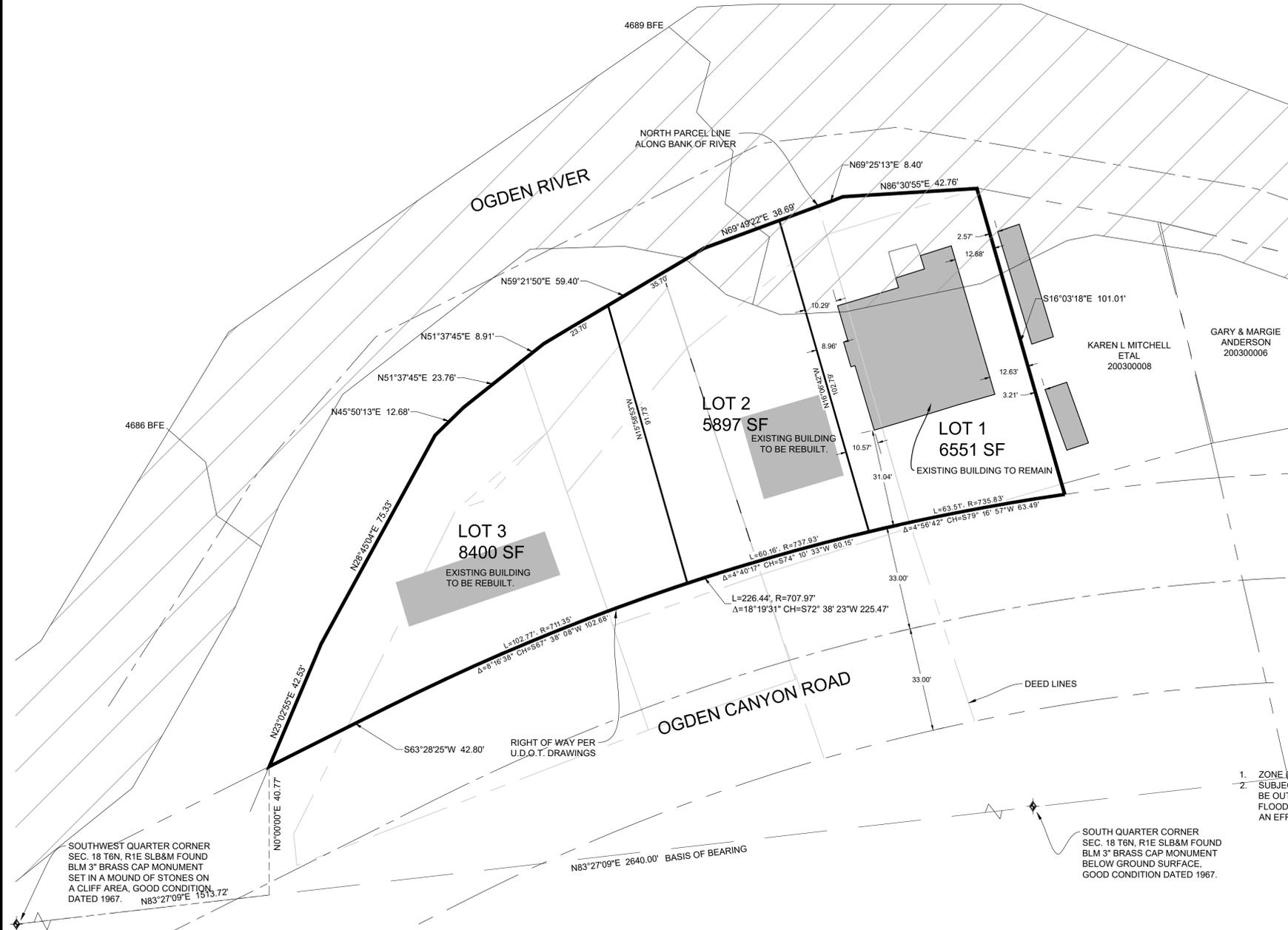
NOTES

- 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.

SOUTH QUARTER CORNER SEC. 18 T6N, R1E SLB&M FOUND BLM 3" BRASS CAP MONUMENT BELOW GROUND SURFACE, GOOD CONDITION DATED 1967.

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.



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.

PL2001 - MISC SURVEY 1980 - DOUG NEILSON SURVEYOR DOUG NEILSON PLAT DWG