



# Staff Report for Administrative Subdivision Approval

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on an administrative application, final approval of Merrill Mountain Estates Subdivision Amendment 1, consisting of 2 lots.

**Agenda Date:** Wednesday, July 01, 2020

**Applicant:** Todd and Marsha, owners

**File Number:** UVM 111819

### Property Information

**Approximate Address:** 5535 E Hwy 39, Huntsville, UT

**Project Area:** 21.72 acres

**Zoning:** Forest Valley (FV-3) Zone

**Existing Land Use:** Vacant Residential

**Proposed Land Use:** Residential

**Parcel ID:** 20-015-0017, 20-015-0018

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

### Adjacent Land Use

<b>North:</b> Vacant	<b>South:</b> Residential
<b>East:</b> 2900 East St.	<b>West:</b> Residential

### Staff Information

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

**Report Reviewer:** RG

## Applicable Ordinances

- Weber County Land Use Code Title 101 (General Provisions) Section 7
- Weber County Land Use Code Title 104 (Zones) Chapter 14 (FV-3 Zone)
- Weber County Land Use Code Title 106 (Subdivisions)

## Background

The applicant is requesting approval of administrative application, final approval of Merrill Mountain Estates Subdivision Amendment 1, consisting of 2 lots, located at approximately 5535 East Hwy 39 in the FV-3 Zone. The proposed 21.72 acre lot within this subdivision meets the lot area and lot width requirements of this Zone, of 3.00 acres in area and 150 feet in width. Access for this lot will be from a previously approved access exception (file# AAE 2019-01, approved 3/20/19). The purpose of this subdivision is to create a second lot within its' boundary.

Culinary water will provided by an existing private well, pending water test results as required by Weber-Morgan Environmental Health. A well-share agreement has been recorded (Exhibit C). A private septic system will be used for waste water. All review agency requirements must be addressed and completed prior to this subdivision being recorded.

## Analysis

**General Plan:** The proposal conforms to the Ogden Valley General Plan by creating large lots to maintain the country feel with land that has agricultural and livestock related uses.

**Zoning:** The subject property is located in the FV-3 zone. The land use requirements for these zones are stated in the LUCS 104-16, respectively, as follows:

*"The purpose of the Forest Valley Zone, FV-3 is to provide area for residential development in a forest setting at a low density, as well as to protect as much as possible the naturalistic environment of the development."*

Small Subdivision: As part of the subdivision process, the proposal has been reviewed against the current subdivision ordinance in LUC 106 chapter 1, and the standards in the FV-3 zone (LUC 104-14). The proposed subdivision will not create any new public streets. The proposal meets the criteria for a “Small Subdivisions”, as defined in LUC 101-7, and can be administratively approved per LUC 106-1-5(b)(1).

Lot area, frontage/width and yard regulations: The FV-3 zone, requires a minimum lot area of 3 acres and a minimum lot width of 150’. The proposed subdivision is a two-lot subdivision amendment that will be accessed off a previously approved alternative access easement.

The proposed subdivision will legally divide lot one of this subdivision to include an additional lot within the existing subdivision boundary. Improvement of the access, in order to widen the drivable surface to 20’, will need to occur when a permit application is submitted for a 5<sup>th</sup> residence, per approval of the alternative access dated March 10, 2019.

Culinary water and sanitary sewage disposal: The office of the State Engineer has issued approval of a well permit, which will need to go through final approval with Weber-Morgan Health Department. Sanitary sewage disposal will be handled by an individual waste water treatment system; specifications are stated in the feasibility letter issued by the Weber County Health Department (See exhibit B).

Review Agencies: The proposed subdivision has been reviewed by all applicable reviewing agencies. Weber Fire has issued approval has issued approval of this project, pending further review at building permit. Planning is recommending conditional approval. Engineering and Surveyor have yet to issue approvals.

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

Public Notice: Noticing requirements, according to LUC 106-1-6(c), have been met by mailing notices out to all property owners of record within 500 feet of the subject property.

## Conformance to the General Plan

Subdivisions that meet the requirements of applicable County Ordinances conform to the General Plan. This subdivision addresses water, wastewater, and other issues which are discussed in the General Plan.

## Staff Recommendations

Staff recommends final approval of the Merrill Mountain Estates Subdivision Amendment 1, a two lot subdivision. This recommendation is subject to all review agency requirements and based on the following conditions:

1. The drivable surface of the access road be widened to 20’, to accommodate a 5<sup>th</sup> dwelling, per approval of AAE 2019-01.
2. A Private Well Deed Covenant and Restriction shall be recorded with the final plat.
3. An Onsite Wastewater Disposal System Deed Covenant and Restriction shall be recorded with the final plat.

This recommendation is based on the following findings:

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

## Administrative Approval

Administrative final approval of Merrill Mountain Estates Subdivision Amendment 1 is hereby granted based upon its compliance with the Weber County Land Use Code. This approval is subject to the requirements of applicable review agencies and the conditions of approval listed in this staff report.

Date of Administrative Approval: **Wednesday, July 1, 2020.**

---

Rick Grover  
Weber County Planning Director

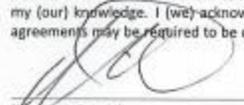
## Exhibits

- A. Application
- B. Proposed Plat
- C. Water/Sewer Feasibility, Approved Well Permit from the State, Well Share Maintenance Agreement

## Area Map



# Exhibit A - Application

<b>Weber County Subdivision Application</b>			
<small>All subdivisions submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401</small>			
<small>Date Submitted / Completed</small>	<small>Fees (Office Use)</small>	<small>Receipt Number (Office Use)</small>	<small>File Number (Office Use)</small>
<b>Subdivision and Property Information</b>			
<small>Subdivision Name</small> Merrill Mountain Estate vs			<small>Number of Lots</small> 2
<small>Approximate Address</small> 5535 E Hwy 39 <sup>Huntsville</sup> Ogden, UT <del>84401</del> 84317			
<small>Current Zoning</small> FV-3		<small>Total Acreage</small> 4.86 to 21.72	
<small>Culinary Water Provider</small> Well		<small>Secondary Water Provider</small> Well	
<small>Wastewater Treatment</small> Septic			
<b>Property Owner Contact Information</b>			
<small>Name of Property Owner(s)</small> Robert Todd Merrill		<small>Mailing Address of Property Owner(s)</small> 4897 Skyline Dr Ogden UT 84403	
<small>Phone</small> 801-499-2594		<small>Preferred Method of Written Correspondence</small> <input checked="" type="radio"/> Email <input type="radio"/> Fax <input type="radio"/> Mail	
<small>Email Address</small> merrill.kay@merrill.com todd_merrill@outlook.com			
<b>Authorized Representative Contact Information</b>			
<small>Name of Person Authorized to Represent the Property Owner(s)</small> " "		<small>Mailing Address of Authorized Person</small>	
<small>Phone</small>		<small>Preferred Method of Written Correspondence</small> Email Fax Mail	
<small>Fax</small>			
<small>Email Address</small>			
<b>Surveyor/Engineer Contact Information</b>			
<small>Name or Company of Surveyor/Engineer</small> Great Basin / Andy Hubbard		<small>Mailing Address of Surveyor/Engineer</small> 5746 S 1475 E S Ogden, UT 84403	
<small>Phone</small> 801-399-8890		<small>Preferred Method of Written Correspondence</small> <input checked="" type="radio"/> Email <input type="radio"/> Fax <input type="radio"/> Mail	
<small>Email Address</small> andy@greatbasineng.com			
<b>Property Owner Affidavit</b>			
<small>I (We) _____, 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. I (we) acknowledge that during the subdivision review process, it may be determined that additional requirements, covenants and/or agreements may be required to be constructed or entered into.</small>			
<small>(Property Owner)</small> 		<small>(Property Owner)</small>	
<small>Subscribed and sworn to me this 15 day of Nov., 2019</small>			
			

# Merrill Mountain Estate

A part of the West Half of Section 14, T6N, R1E, SLB&M, U.S. Survey  
 Weber County, Utah  
 February 2020



### NARRATIVE

This survey and subdivision plat were requested by Todd Merrill for the purpose of subdividing a building parcel from an existing agricultural parcel.

A US Department of Interior 2" Brass Cap Monument was found at the Southwest corner and Southwest corner of Section 14, T6N, R1E, SLB&M.

Multiple Rebar with Caps and wooden hubs with Tacks were found around the perimeter locations of these property markers were checked against a Record of Survey prepared by G. Surveyors for Barbara Anderson, and were honored.

A line bearing North 89°36'43" West between the Southwest corner and South Quarter as basis of bearings.

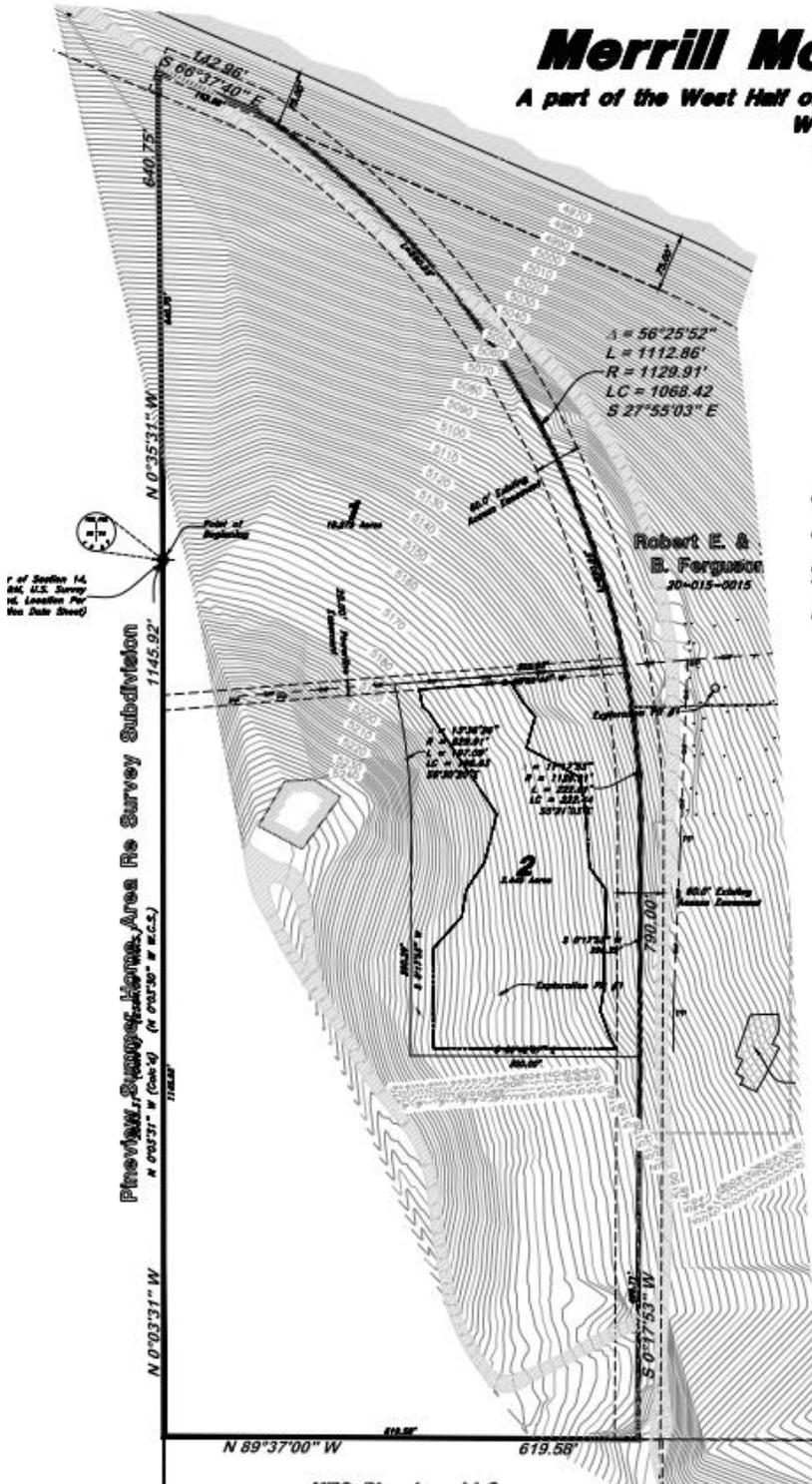
Property corners were monumented as depicted on this plat.

### EXPLORATION PIT

Exploration Pit #1 - (UTM Zone 12 East 83 0461747 E 4567931 N)  
 0-22" Sandy Loam, Granular Structure, CSE Gravel  
 22-48" Sandy Loam, Granular Structure, CSE Gravel  
 48-70" Sandy Clay Loam, Angular Shaly Structure, CSE Gravel  
 70-77" Fine Sandy Loam, Granular Structure, CSE Gravel

### Legend

- Monument to be set
- ⊕ Found Centerline Monument
- (Rad.) Radial Line
- (N/R) Non-Radial Line
- PUE Public Utility Easement
- PURDE Public Utility & Drainage Easement
- - - - - Fence
- Subtable Area
- Set Hub & Tack
- ▲ will be set Nail in Curb
- ⊙ Extension of Property
- Set 5/8" x 24" Long Rebar & Cap w/ Lathe
- PP Power Pole
- Lot
- Boundary
- Easement



BRIAN W. BENNION, M.P.A., L.E.H.S.  
Health Officer/Executive Director



November 5, 2019

Weber County Planning Commission  
2380 Washington Blvd.  
Ogden, UT 84401

RE: Robert Todd & Marsha Merrill  
5535 E Hwy 39, Huntsville  
Parcel #20-015-0012  
Soil log #14910

Gentlemen:

The soil and percolation information for the above-referenced lot have been reviewed. Culinary water will be provided by a private well. The **placement of the well is critical so as to provide the required 100 foot protection zone around the well.** The well will need to be dug, tested and the water supply approved prior to issuance of a wastewater disposal permit.

DESIGN REQUIREMENTS

Anticipated ground water tables not to exceed 48 inches, fall within the range of acceptability for the utilization of a Conventional Treatment System as a means of wastewater disposal. Maximum trench depth is limited to 18 inches. The absorption field is to be designed using a maximum loading rate of 0.5 gal/sq. ft./day as required for the sandy clay loam, blocky structure soil horizon.

Plans for the construction of any wastewater disposal system are to be prepared by a Utah State certified individual and submitted to this office for review prior to the issuance of a Wastewater Disposal permit.

The following items are required for a formal **subdivision review**: application, receipt of the appropriate fee, and a full sized copy of the subdivision plats showing the location of exploration pits and percolation tests as well as the documented soil horizons and percolation rates. A subdivision review will not occur until all items are submitted. Mylars submitted for signature without this information will be returned.

Each on-site individual wastewater disposal system must be installed in accordance with R317-4, Utah Administrative Code, Individual Wastewater Disposal Systems and Weber-Morgan District Health Department Rules. Final approval will be given only after an on-site inspection of the completed project and prior to the accomplishment of any backfilling.

Please be advised that the conditions of this letter are valid for a period of 18 months. At that time, the site will be re-evaluated in relation to rules in effect at that time.

Sincerely,

Ryan Klinge, LEHS  
Environmental Health Division  
801-399-7160

RK/gk



GARY R. HERBERT  
Governor  
SPENCER J. COX  
Lieutenant Governor

**State of Utah**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Water Rights**

BRIAN C. STEED  
Executive Director

BOYD P. CLAYTON  
State Engineer/Division Director

**ORDER OF THE STATE ENGINEER**  
**For Exchange Application Number 35-13632 (E5981)**

Exchange Application Number 35-13632 (E5981) in the names of Robert Todd and Marsha Merrill was filed on November 15, 2019, to exchange 1.00 acre-foot of water as evidenced by Water Right Number and 35-827 (A27608) owned by the U.S. Bureau of Reclamation and a contract (Number 73322 associated with Tax I.D. Number 20-015-0017) for its use with Weber Basin Water Conservancy District (WBWCD). The 1.00 acre-foot of water is to be released from Pineview Reservoir and, in lieu thereof, 1.00 acre-foot of water will be diverted from: (1) Well - North 513 feet and East 22 feet from the W $\frac{1}{4}$  Corner of Section 14, T6N, R1E, SLB&M (existing 10-inch, 490 feet deep, constructed in 2009); (2) Well - South 540 feet and East 110 feet from the W $\frac{1}{4}$  Corner of Section 14, T6N, R1E, SLB&M (6-inch well, 100-500 feet deep). The water is to be used for the irrigation of 0.1833 acre from April 1 to October 31; and year-round, indoor, domestic requirements of 1.00 equivalent domestic unit (EDU). The water is to be used in all or portion(s) of Section 14, T6N, R1E, SLB&M.

Notice of the exchange application was published in the Standard Examiner on December 12 and 19, 2019. No protests were received.

It is the opinion of the State Engineer that this exchange application can be approved without adversely affecting existing rights. The applicants are put on notice that diligence must be shown in pursuing the development of this application, which can be demonstrated by the completion of the project as proposed in the exchange application.

It is, therefore, **ORDERED** and Exchange Application Number 35-13632 (E5981) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicants and WBWCD. This contract must be maintained for this exchange to remain valid. No water may be withdrawn under this application if a contract is not in effect.
- 2) Total diversion under this exchange application is limited to 1.00 acre-foot of water per year for the irrigation of 0.1833 acre (0.55 acre-foot) from April 1 to October 31; and year-round, indoor, domestic requirements of 1.00 EDU (0.45 acre-foot).
- 3) The applicant shall maintain controlling works and a metering device as required by Section 73-5-4 of the Utah Code.
- 4) The water being exchanged shall be released from Pineview Reservoir into Ogden River as called for by the river commissioner.

The applicants are strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicants to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before **January 31, 2025**, or a request for extension of time must be acceptably filed; otherwise, the application will be lapsed. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to, or use of land or facilities not owned by the applicants.

When the work is complete, an Affidavit of Beneficial Use may be submitted by an applicant without hiring a proof professional if it qualifies under statute. An affidavit qualifies if all of the following criteria are met:

- The water right is associated with a residence, either full- or part-time. (NOTE: Any irrigation or stock use on the affidavit must be associated with the residence.)
- The water use is for a quarter acre of irrigation or less.
- The water use is for the watering of ten head of livestock (or equivalent) or less.
- The water use does not include any uses in addition to the three listed above.

As noted, this approval is granted subject to prior rights. The applicants shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among parties or decreed by a court of competent jurisdiction.

Under the authority of Section 73-3-20 of the Utah Code, the applicants are required to submit a proof of diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses and extent of your water right.

Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicants must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights, which may be approved to be diverted from those sources.

ORDER OF THE STATE ENGINEER

Exchange Application Number

35-13632 (E5981)

Page 3

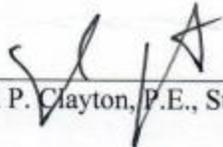
Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this exchange application.

**It is the applicants' responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership. Additionally, if ownership of this water right or the property with which it is associated changes, the records of the Division of Water Rights should be updated. For assistance in updating title to the water right please contact the Division at the phone number below.**

Your contact with this office, should you need it, is with the Weber River/Western Regional Office. The telephone number is 801-538-7240.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or for judicial review with the appropriate District Court. A Request for Reconsideration must be filed in writing with the State Engineer within 20 days of the date of this Order. The written request shall be filed in-person, by mail, or electronically. If the request is filed electronically it shall be submitted to: [waterrights@utah.gov](mailto:waterrights@utah.gov), which is the authorized general email for the Division. However, a Request for Reconsideration is not a prerequisite to filing for judicial review. A petition for judicial review must be filed within 30 days after the date of this Order or, if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 27 day of January, 2020.

  
Boyd P. Clayton, P.E., State Engineer

ORDER OF THE STATE ENGINEER

Exchange Application Number

35-13632 (E5981)

Page 4

Mailed a copy of the foregoing Order this 27 day of January, 2020 to:

Robert Todd and Marsha Merrill

4897 Skyline Drive

So Ogden UT 84403

Weber Basin Water Conservancy District

2837 East Highway 193

Layton UT 84040

Cole Panter, River Commissioner

PO Box 741

OGDEN UT 84402

Division of Water Rights

Distribution Section

c/o Ben Anderson

OGDEN RIVER

BY: Doralee Cannon  
Doralee Cannon, Applications/Records Secretary



E# 3014320 PG 1 OF 3  
Leann H. Kilts, WEBER COUNTY RECORDER  
04-Nov-19 12:33 PM FEE \$40.00 DEP DAC  
REC FOR: US TITLE INSURANCE AGENCY  
ELECTRONICALLY RECORDED

## Well Share & Maintenance Agreement

We the undersigned Mary M Merrill Living Trust and Robert Todd & Marsha Merrill hereby declare that we are the beneficial parties of a well affecting the property herein described as shown on the attached "Exhibit A". In as much as the well was granted for our benefit, we by agreement hereby define responsibilities in regard to the maintenance of said well.

1. The parcels described herein have access and maintenance rights to the well servicing parcels described in "Exhibit A" and water rights servicing the parcels. The owner of Lot 1, parcel# 20-015-0017 agrees to pay 50% of the maintenance and utility costs. The owner of Lot 2, parcel# 20-015-0018 agrees to pay 50% of the maintenance and utility costs.
2. The above parties agree to keep the right of way accessible for any maintenance, inspections, repairs, etc. which may be required to be made on the described well.
3. This agreement shall run with the land and is binding upon heirs, assigns and successors in interest of the parties hereto.

DATED the 21<sup>st</sup> day of October, 2019.

GRANTOR:

Mary M. Merrill Trustee  
Mary M. Merrill Living Trust

Robin TRUSTEE

GRANTEE:

Robert Todd Merrill  
Robert Todd Merrill  
Marsha Merrill  
Marsha Merrill

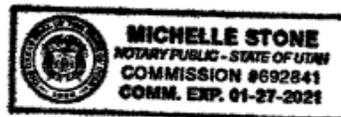
STATE OF UTAH            )  
                                          :SS  
COUNTY OF WEBER        )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of October, 2019, by Robert Todd Merrill and Marsha Merrill and Mary M. Merrill and Robert E. Merrill, Trustees of The Mary M. Merrill Living Trust, dated 3/22/2011.

Michelle Stone

Notary Public  
Residing at: Weber County, UT

My Commission Expires: 01-27-2021



## **Exhibit A -**

Merrill Mountain Estates: Lot 1

Metes and Bounds Description

A part of the West Half of Section 14, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey

Beginning at the West Corner of said Section 14; and running thence North  $00^{\circ}35'31''$  West 640.75 feet along the Section line to the Southright of way line of the Pineview-Huntsville Highway (SR-39); thence South  $66^{\circ}37'40''$  East 142.96 feet along said South right of way line to a point on a non-tangent curve to the right, of which the radius point lies South  $33^{\circ}52'01''$  West; thence Southeasterly along the arc of a 1,129.91 feet curve to the right a distance of 572.39 feet (Central Angle equals  $29^{\circ}01'29''$  and Long Chord bears South  $41^{\circ}37'15''$  East 566.29 feet) ; thence South  $62^{\circ}53'30''$  West 490.40 feet; thence South  $00^{\circ}10'04''$  East 131.30 feet; thence South  $89^{\circ}42'07''$  East 244.93 feet to a point on a non-tangent curve to the right, of which the radius point lies South  $78^{\circ}57'59''$  West; thence Southerly along the arc of a 829.91 feet curve to the right a distance of 164.14 feet (Central Angle equals  $11^{\circ}19'55''$  and Long Chord bears South  $05^{\circ}22'04''$  East 163.87 feet); thence South  $00^{\circ}17'53''$  West 54.34 feet; thence South  $89^{\circ}42'07''$  East 300.00 feet; thence South  $00^{\circ}17'53''$  West 735.66 feet; thence North  $89^{\circ}37'00''$  West 619.58 feet to the Section line; thence North  $00^{\circ}03'31''$  West 1,145.92 feet along the Section line to the POINT OF BEGINNING.

Containing 17.2169 acres, more or less.

Merrill Mountain Estates: Lot 2

Metes and Bounds Description

A part of the West Half of Section 14, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey

Beginning at a point, 412.29 feet South  $0^{\circ}03'31''$  East along the Quarter Section line and 324.14 North  $89^{\circ}56'29''$  East from the West Corner of said Section 14; and running thence North  $00^{\circ}17'53''$  East 54.34 feet; thence Northerly along the arc of a 829.91 feet curve to the left a distance of 164.14 feet (Central Angle equals  $11^{\circ}19'55''$  and Long Chord bears North  $05^{\circ}22'04''$  West 163.87 feet) ; thence North  $89^{\circ}42'07''$  West 244.93 feet; thence North  $00^{\circ}10'04''$  West 131.30 feet; thence North  $62^{\circ}53'30''$  East 490.40 feet to a point on a non-tangent curve to the right, of which the radius point lies South  $62^{\circ}53'30''$  West; thence Southerly along the arc of a 1,129.91 feet curve to the right a distance of 540.47 feet (Central Angle equals  $27^{\circ}24'23''$  and Long Chord bears South  $13^{\circ}24'18''$  East 535.34 feet) ; thence South  $00^{\circ}17'53''$  West 54.34 feet; thence North  $89^{\circ}42'07''$  West 300.00 feet to the POINT OF BEGINNING.

Containing 4.5027 acres, more or less.