



# Staff Report to the Weber County Commission

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** A public hearing to consider and take action on a request to reduce the width of a 10' public utility easement. The resulting width of the public utility easement would measure 8'. The easement width reduction would take place on the rear of lot 32 of Mountain View Estates No. 5.

**Agenda Date:** Tuesday, November 30, 2021

**Applicant:** Dan Mortensen, Owner

**File Number:** EV 2021-08

### Property Information

**Approximate Address:** 4883 E 2875 N, Eden, UT

**Project Area:** 0.98 acres

**Zoning:** AV-3 Zone

**Existing Land Use:** Residential

**Parcel ID:** 22-189-0001

**Township, Range, Section:** T7N, R1E, Section 27

### Adjacent Land Use

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

### Staff Information

**Report Presenter:** Felix Lleverino  
 flleverino@co.weber.ut.us  
 801-399-8767

**Report Reviewer:** SB

## Background and Summary

The applicant is requesting a reduction of a public utility easement to accommodate an existing large accessory structure. Due to a mistake in locating the exact location of the property line, the large accessory structure is encroaching into a 10' public utility easement.

The Weber County Building official brought this issue to the attention of the Planning Division. It is determined that the most effective and lawful means to address the issue is to request a reduction of the PUE and hold a public hearing.

Written notice to Rocky Mountain Power, Dominion Energy, and Wolf Creek Irrigation Company is sent. Wolf Creek Irrigation company has provided written approval of the easement reduction.

A vacation ordinance, seen in Exhibit B, is the chosen instrument to execute the vacation. Weber County Engineering has provided written consent to the easement reduction request. The Weber County Attorney has reviewed the ordinance and approves.

## Summary of County Commission Considerations

The County Commission will need to determine if there will be any detrimental impacts caused by vacating the proposed public utility easements. Utah Code §17-27a-609.5 states that *"The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street, right-of-way, or easement if the legislative body finds that:*

- (a) good cause exists for the vacation; and*
- (b) the public interest or any person will not be materially injured by the proposed vacation.*

## Conformance to the General Plan

Vacating the identified easement is not anticipated to have a negative effect the Ogden Valley General Plan.

## Staff Recommendation

Staff recommends approval of the request to reduce the width of a 10' public utility easement. The resulting width of the public utility easement would measure 8' in width. This recommendation for approval is subject to all review agency requirements.

The recommendation is based on the following findings:

1. Vacating the proposed public utility easement will not have a negative effect on the Ogden Valley General Plan.
2. Based on the proposed subdivision amendment, good cause exists to vacate the easement.
3. The public interest or any person will not be materially injured by the proposed vacation.

## Exhibits

- A. Easement Vacation Application with Narrative
- B. Vacation Ordinance

## Location Map



**Exhibit A – Easement Vacation Application with Narrative**

**Weber County Vacation Application**

Application submittals will be accepted by appointment only. (801) 399-8374. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed 11-16-21	Fees (Office Use)	Receipt Number (Office Use)
--	-------------------	-----------------------------

**Requesters Contact Information**

Name Daniel R. Mortensen		Mailing Address P.O. Box 22 Eden, UT 84310
Phone 801-917-9214	Fax —	
Email Address DAN.MORTENSEN@SLCCGOV.COM		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail

**Property Information**

Address 4883 E. 2875 N. Eden, UT 84310	Land Serial Number(s) 22-1890001
Vacation Request <input checked="" type="checkbox"/> Easement <input type="checkbox"/> Road <input type="checkbox"/> Subdivision <input type="checkbox"/> Subdivision Lot	Current Zoning AV3
Subdivision Name Mountain View Estates No. 5	Lot Number(s) 32

Project Narrative  
\*Please see attached letter and documents.

**Property Owner Affidavit**

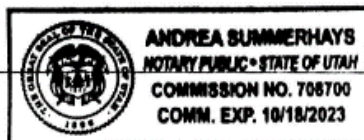
I (we), Daniel R & Alisa P. Mortensen, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

[Signature]  
(Property Owner)

[Signature]  
(Property Owner)

Subscribed and sworn to me this 16th day of November, 2021.

[Signature]  
(Notary)



November 16<sup>th</sup>, 2021

Weber County Planning

Attention: Felix Lleverino

RE: Public Utility Easement Vacation

Hello Felix,

This letter is a follow up to our phone conversations and emails this past week. As stated, I recently had a pole barn built on my property. During the inspection process it was determined the building has encroached into the PUE on the south side of my property. According to a survey conducted by Land Mark Survey, the building corners are 9'6" from the property line. As per the construction plans the footing are 24" in diameter, which puts the underground piers 9' from the property line. This creates an 18" encroachment into the PUE on the south side of my property. As per the plat maps, my property has a 10' PUE, the neighboring property has a 5' PUE. I have been in contact with Mr. Stan Berniche about this issue and he directed me to contact your division.

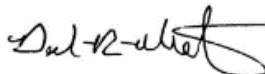
The building started construction in the fall of 2020. I hired Beehive Builders for the construction. I was present for the final building inspection in late December 2020. During that inspection, I became aware the inspector was requiring a survey to verify the buildings distance from the property/PUE lines. At that same inspection, I was informed the inspector had made that request to my builder from the initial inspections; my builder did not share that information with me. Mr. Berniche has been great to work with and granted an extension on my permit. I was able to get a surveyor to document the building on the property during that time. The surveyor's letter and construction documents are attached to this letter. It should also be noted, soon after the December 2020 inspection, the project foreman (assigned to my building) was fired from Beehive Builders.

This past week I met with Mr. Dee Staples, President of Wolf Creek Irrigation Company. Wolf Creek has a water line in the PUE on the south side of my property. The water line was physically exposed this past week and Mr. Staples visited the site. Mr. Staples requested documents related to my construction and the encroachment. After consulting with Mr. Staples he provided a letter from his company regarding the encroachment, the letter is also attached. To the best of Mr. Staples and my knowledge Wolf Creek Irrigation is the only service provider in the PUE.

I am requesting the PUE on the south side of my property be reduced from 10' to 8', accommodating the building encroachment. Please let me know what steps I should take with your division and any if any additional information needed.

Thank you in advance for your time and consideration,

Daniel R. Mortensen, Property Owner, 4883 E. 2875 N. Eden, Ut. 84310



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF WEBER COUNTY VACATING A PORTION OF  
A PUBLIC UTILITY EASEMENT IN THE MOUNTAIN VIEW ESTATES NO. 5**

**WHEREAS**, the Owner has filed a petition to vacate two feet from a ten-foot public utility easement along the rear property line of lot 32, Mountain View Estates, as depicted in Exhibit A of this ordinance; and

**WHEREAS**, after providing proper public notice, a public hearing was held before the Weber County Commission on November 30, 2021, regarding the reduction of the public utility easement; and

**WHEREAS**, Weber County's Engineering Department has been notified and has provided written approval of the public utility easement width reduction; and

**WHEREAS**, the Commission finds that good cause exists to reduce the width of the public utility easement, and that it will not substantially affect the Ogden Valley General Plan, and that neither the public interest nor any person will be materially injured;

**NOW THEREFORE**, the Board of County Commissioners of Weber County ordains as follows: two feet are hereby vacated from a ten-foot public utility easement along the rear property line of lot 32, Mountain View Estates No. 5, as depicted in Exhibit A of this ordinance.

This ordinance shall be effective 15 days after publication in the Standard Examiner.

Adopted and ordered published this 30<sup>th</sup> day of November, 2021.

Weber County Commission

By \_\_\_\_\_

James H. Harvey, Chair

Commissioner Harvey Voted \_\_\_\_\_

Commissioner Froerer Voted \_\_\_\_\_

Commissioner Jenkins Voted \_\_\_\_\_

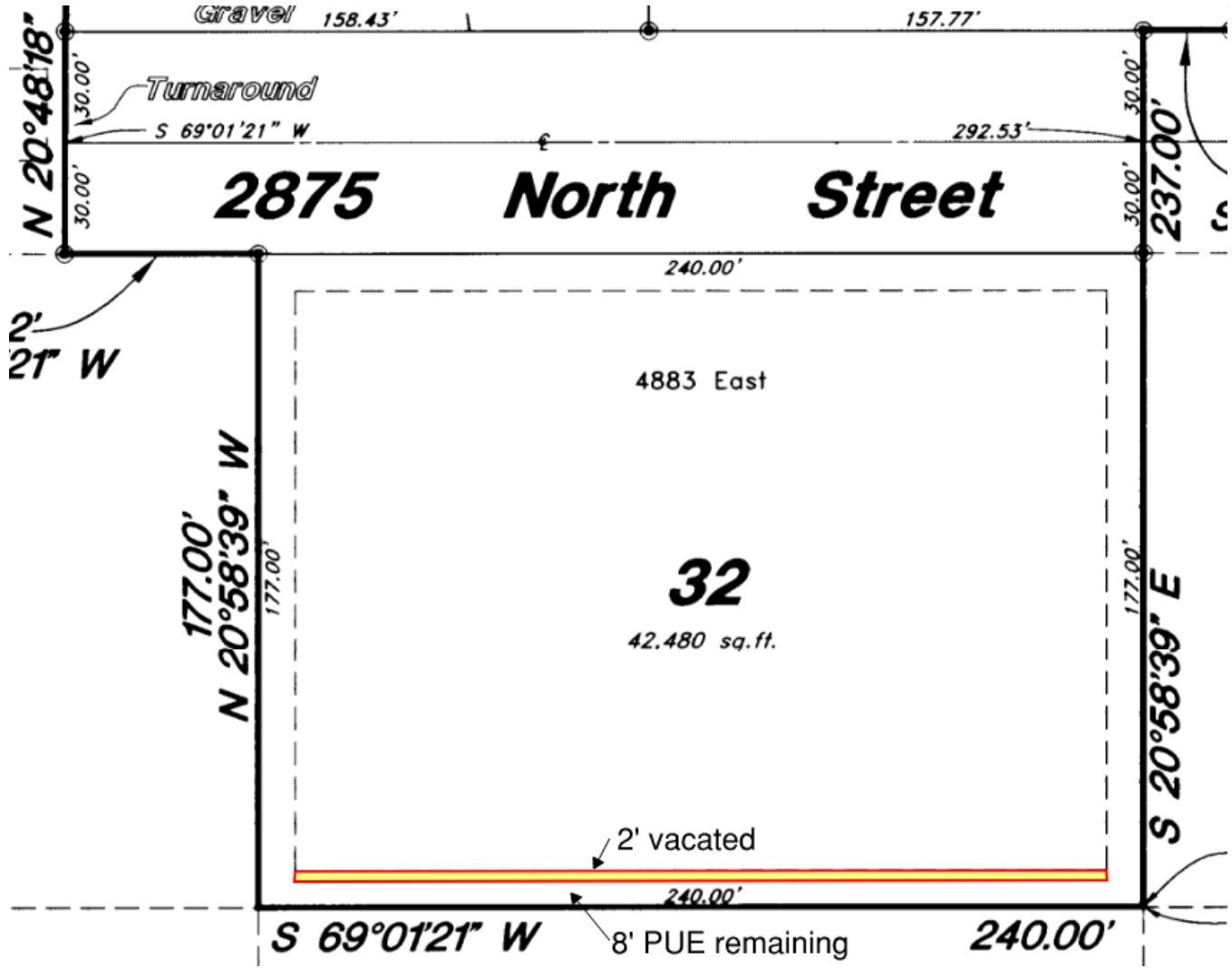
ATTEST:

\_\_\_\_\_

Ricky Hatch, CPA

Weber County Clerk

Exhibit A



Dedication Plat 54-098