

MEMO

TO: Board of Weber County Commissioners

FROM: Charlie Ewert – Planning Division

DATE: December 4, 2025

RE: *Agenda Item on Dec 9th Meeting: Discussion and decision for an ordinance and development agreement regarding a request from Ogden City to preserve and enable the transfer of development rights from approximately 24 acres of land located in the CVR-1 zone at approximately 800 North 5900 East, in the unincorporated Ogden Valley.*

In the December 9, 2025 county commission meeting, commissioner are being requested to hear and make decision on a development agreement between Weber County and Ogden City designating and governing a transferable development right (TDR) sending area on property located in the CVR-1 zone at approximately 800 North 5900 East in unincorporated Ogden Valley. The Ogden Valley Planning Commission heard the item in public hearing on September 23, 2025 and recommended denial of the proposal. The county commission has previously considered the item in work session on both 10/6 and 10/13. Attached to this memo is the Planning Commission staff report and a summary of their recommendations. Legal has reviewed the agreement and approved it as to form.

September 23, 2025 Planning Commission Meeting (Hearing) Recommendation (Summarized):

Planning Commission **Motion by Commissioner Jeff Barber** to recommend denial based on:

1. It not meeting the requirements of the general plan.
2. It is not contemplated by any existing code.
1. And a request for a market study was requested and not provided by the applicant.

Motion passed 5-2 with Jeff Burton and Bryce Froerer voting against the motion.

Attachments:

1. Proposed Ordinance
2. Proposed Development Agreement
3. Planning Commission Staff Report

ORDINANCE NUMBER 2025-

**AN ORDINANCE DESIGNATING A TRANSFERABLE DEVELOPMENT RIGHT
(TDR) SENDING AREA AND ADOPTING A DEVELOPMENT AGREEMENT FOR
APPROXIMATELY 24 ACRES OF PROPERTY IN THE CVR-1 ZONE LOCATED AT
APPROXIMATELY 800 NORTH 5900 EAST**

WHEREAS, the Weber County Board of Commissioners has adopted a zoning map and General Plan for the unincorporated areas of Weber County; and

WHEREAS, the Weber County Board of Commissioners has received an application to adopt a Development Agreement for approximately twenty-four and forty-seven thousandths (24.047) acres on property located at approximately 800 North 5900 East generally in unincorporated Weber County; and

WHEREAS, State Code Section 17-79-503 provides for the amendment of a land use regulation; and

WHEREAS, State Code Section 17-79-503 requires an amendment to a land use regulation to first receive a recommendation from the Planning Commission; and

WHEREAS, State Code Sections 17-79-101(1)(b) and 508 allow the County to enter into development agreements that modify, extend, clarify and impose certain land use regulations after first receiving a recommendation from the planning commission; and

WHEREAS, State Code Section 17-79-603 requires the County to adopt an ordinance designating sending and receiving zones for transferable development rights; and

WHEREAS the Weber County Board of Commissioners desires to comply with the provisions of state code, including Section 17-79-603 by means of adopting this ordinance; and

WHEREAS, After a public hearing on September 23, 2025, the Planning Commission for the Ogden Valley made a recommendation to the Weber County Board of Commissioners regarding the proposed Development Agreement; and

WHEREAS, After reviewing the Planning Commission's recommendation and the Ogden Valley General Plan, and in consideration of the mutual promises and other considerations in applicant's proposed voluntary contributions and amenities accepted by Weber County Board of Commissioners by means of the associated Development Agreement, the Recitals of which are hereby incorporated by reference, the Weber County Board of Commissioners desires to acknowledge the current CVR-1 zone of the subject property as modified by the approved Development Agreement; and

WHEREAS, The Parties mutually understand that the Weber County Board of Commissioners is not obligated to approve the Development Agreement, but desires to do so as a result of the applicant's voluntary contributions as set forth in that Agreement, without which the County would not realize the full benefits of this decision and would not adopt the Development Agreement;

NOW THEREFORE, the Weber County Board of Commissioners ordains this ordinance recognizing the zoning of the property as modified by the Development Agreement and hereby designates the property as a transferable development right sending zone pursuant to Section 17-

79-603 of Utah State Code. The legal description of the property is included as Exhibit A to the Development Agreement. In the event the legal description is found by a licensed surveyor to be invalid or incorrect, the corrected legal description shall prevail as the description herein referenced, if recommended by the County Surveyor, provided that the corrected legal description appropriately bounds the subject property and fits within the correct legal description of surrounding properties. The Weber County Board of Commissioners further hereby approves the Development Agreement and authorizes the Chairperson of the Commission to execute it on behalf of the County.

This ordinance shall become effective 15 days after its passage or on the day the herein referenced Master Development Agreement between Ogden City and Weber County is recorded, whichever is later, as long as it has been published in accordance with statutory requirements. The Clerk/Auditor's office is directed to publish a short summary of this ordinance in the *Standard Examiner* newspaper before 15 days after the date of its passage.

Passed, adopted, and ordered published this 9th day of December, 2025, by the Weber County Board of Commissioners.

BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY

By _____
Sharon Bolos, Chair

Commissioner Harvey voted _____

Commissioner Bolos voted _____

Commissioner Froerer voted _____

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

AGREEMENT

THIS AGREEMENT ("Agreement") for registration of transferrable development rights dated this 9th day of December, 2025 (the "Effective Date") is made between Weber County, a Utah political subdivision, ("County"), and Ogden City, a Utah municipal corporation ("Applicant"). County and Applicant are referred to collectively herein as the "Parties" and sometimes individually as a "Party."

R E C I T A L S:

A. Applicant is the fee simple owner of certain property located in Weber County, State of Utah, which property is more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Sending Property"); and

B. The Sending Property is highly visible from throughout the Ogden Valley and is located in an area valued for its agricultural and open space characteristics.

C. The Sending Property is located in an area zoned as Commercial Valley Resort Recreation Zone (CVR-1) which allows for service facilities and goods normally required by the public in the pursuit of general recreation activities and the construction of dwelling units.

D. Applicant desires to register the allowed dwelling units associated with the sending property for use in existing and future areas where the transfer of development rights is allowed.

E. County and Applicant recognize that a transfer of development rights program requires availability of dwelling units for transfer and that the recognition of the units described in this Agreement will assist in operating such a program now and in the future.

F. Applicant intends to use the sending property for the operation of water wells together with treatment or other facilities associated with the production, storage and delivery of water. Applicant is entering into this Agreement with the understanding that such uses will be protected and that it will be able to restrict public access to the sending property and to use the sending property for agricultural purposes and other uses consistent with this Recital F.

NOW, THEREFORE, the Parties hereto intending to be legally bound and in consideration of the respective undertakings made and described herein, do agree as follows:

1. **Sending Property.** The sending property, comprised of 24.047 acres and located generally at 989 North 5900 East (Stringtown Road), is more fully described on Exhibit A, attached hereto and incorporated herein by reference.
2. **Sending Property Details.** The sending property:
 - a. Is zoned as CVR-1, which allows for a maximum number of residential units based on parcel size.
 - b. Does not contain slopes of 30% or greater;
 - c. Is not subject to an irrevocable transfer of development rights easement reserved for future development;

- d. Is not designated as a reserved future development area on an approved transferable development right site plan;
 - e. Is not restricted by a conservation easement or similar instrument restricting residential or commercial development;
 - f. Is not owned by the federal government or a state government agency;
 - g. Is located within the Ogden Valley Area;
 - h. Is not a lot of record subject to the payment of fees for operation and/or maintenance of common areas, open space, amenities and/or private facilities;
 - i. Is not a fractional and/or noncontiguous portion of a lot of record or parcel of land that does not meet or fully exceed the minimum area requirement for the CVR-1 zone.
 - j. Is owned by Applicant in fee simple absolute and is not encumbered by any mortgage, trust deed, loan or other security instrument.
3. **Calculation of Density.** The sending property could be developed in the CVR-1 Zone with 521 dwelling units (Transferable Units) , calculated as follows:

Acres: 24.047 / 1,047,487 sq. ft.	Total Square Footage	Number of Transferrable Units
First 2 Dwelling Units (at 7,500 sq. ft.)	7,500	2
Additional Dwelling Units (at 2,000 sq. ft. per unit)	1,038,000	519
Total	1,045,550	521

The Transferable Units are hereby registered for use as part of existing or future transfer of development rights programs and ordinances adopted by County and as further described in this Agreement.

4. **Applicant’s Obligations.** By entering into this Agreement, Applicant agrees to limit its right to develop the number of dwelling units which it would otherwise be allowed to construct under the CVR-1 zone as Transferable Units are transferred.
- a. Applicant will not fractionalize or transfer Transferrable Units except in whole numbers.
 - b. Applicant reserves the right to restrict public access to the sending property, to use the sending property for agricultural purposes and to use the sending property for the operation of water wells together with treatment or other facilities associated with the production, storage and delivery of water.
 - c. Applicant will participate in a transferrable development rights bank, marketplace or other system that may be established by County and required of all other transferrable rights as part of a transfer of development rights program.
 - d. Applicant will continue to be responsible for and bear all costs and liabilities of any kind related to ownership, operation, upkeep and maintenance of the sending property.
5. **County’s Obligations.** The parties understand that County ordinances currently allow for the transfer of density only to the Destination and Recreation Resort Zone (DRR -1). By entering into this Agreement, County agrees that:
- a. Applicant retains the right to restrict public access to the sending property, to use the sending property for agricultural purposes and the ability to use the sending

property for the operation of water wells together with treatment or other facilities associated with the production, storage and delivery of water.

- b. The Transferable Units may be transferred to the DRR-1 zone and any other zone or municipality within Ogden Valley that, at the time of a transfer, is designated as a receiving area for transferrable density, subject to any required administrative process to certify and confirm the number of units being transferred and the number of Transferable Units remaining available under this Agreement and the payment of any applicable fee to recognize the transfer. Notwithstanding the foregoing, any transfer of Transferable Units within a municipality located in Ogden Valley shall be negotiated with said municipality.
 - c. Upon transfer, Applicant's Transferrable Units shall be recognized in no less than a 1 to 1 ratio, so that for each Transferrable Unit transferred to a receiving zone, the receiving area development shall be able to construct at least 1 dwelling unit.
 - d. If bonus units are allowed as part of the ordinance or regulations permitting the transfer of development density to a particular receiving area, the Transferable Units shall be eligible to be considered for such bonus if they otherwise meet the requirements associated with such bonus.
 - e. The rights described in this Agreement are vested and the number of Transferable Units will not be altered or diminished by any future rezoning of the sending property, changes to the general plan or land use ordinances applicable to the sending property.
 - f. The Transferrable Units recognized in this Agreement will not be subject to any inferior treatment or additional limitations that are not imposed on other transferrable rights allowed to be transferred to a particular receiving area.
 - g. The Transferrable Units may be transferred over time and to more than one receiving area and will not be limited based on a receiving area accepting development rights from more than one sending site.
 - h. The sales price for Transferrable Units will not be regulated or limited by County.
6. **Rights and Obligations.** To the maximum extent permissible by law, the Parties intend for the rights granted by this Agreement to be vested and binding on the Parties and their successors; however, it is expressly understood that a court may disagree, and the County does not guarantee, and cannot guarantee, that Applicant's rights under this agreement will be binding after the incorporation of the area that includes the Sending Property. Notwithstanding the "Severability" section of this Agreement, the Parties agree that if a binding determination is later made by proper legal authority, or by Applicant and the new city, that has the effect of reducing or eliminating Applicant's Transferrable Units, then County's obligations with respect to Transferrable Units will only apply to the remaining number of valid Transferrable Units.
7. **Easement.** The parties acknowledge that County ordinances may require the use of a conservation or other easement as part of a transfer of development rights program. Any such easement shall include terms that reflect the provisions and intent as described in this Agreement. Recognizing that Transferrable Units will likely be transferred over time, these documents will be applied to the property from south to north so that the southerly portion of the sending property is subject to restrictions before the north portion of the property is subject to such restrictions. Notwithstanding the foregoing, Applicant reserves the right to maintain, construct or build utility structures within the easement area as may be necessary to support public services or infrastructure.

8. **Term.** The Transferrable Units shall be available for use and transfer under this Agreement for a period of one hundred years from the Effective Date. Any Transferrable Units that have not been transferred at that time shall revert to use on the Sending Property.
9. **Amendment.** Any amendment, modification, termination, or rescission affecting this Agreement shall be made in writing, signed by the Parties, and attached hereto.
10. **No Joint Venture.** Nothing contained in this Agreement shall be construed as creating a joint venture, partnership or association between the County and Applicant. Each Party hereto is a separate and independent entity acting on its own behalf.
11. **Default.** In the event of default by either Party to this Agreement in any of the terms, provisions, covenants, or agreements to be performed by said Party under this Agreement and said defaulting Party fails to cure such default within sixty (60) days after written demand by the other Party, then the Party providing said notice of default shall thereafter have no further obligations to the defaulting Party hereunder. The defaulting Party shall be liable to the non-defaulting Party for any and all damages, costs and expenses incurred by the non-defaulting Party caused by the defaulting Party. Nothing herein shall limit the remedies at law or in equity available to the non-defaulting Party in the event this Agreement is terminated due to the default of a Party.
12. **Successors.** This Agreement shall be binding upon, and inure to the benefit of, the legal representatives, successors and assigns of the Parties hereto.
13. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.
14. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.
15. **Counterparts.** This Agreement may be executed in one or more duplicate originals, each of which shall be deemed to be an original.
16. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.
17. **Captions.** The Captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.
18. **Integration.** This Agreement contains the entire and integrated agreement of the Parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducement, or understandings between the Parties and not contained herein shall be of any force or effect.
19. **No Presumption.** This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against

either County or Applicant. Each Party represents and warrants to the other Party that it has been represented by, and has had the opportunity to consult with, legal counsel in connection with the review, negotiation and execution of this Agreement.

20. **Further Acts.** In addition to the acts or documents contemplated to be performed, executed, and delivered by County and Applicant, County and Applicant agree to perform, execute, and deliver or cause to be performed, executed, and delivered any and all such further acts, documents and assurances as may be necessary to consummate the transactions contemplated hereby.
21. **Non-liability of County or Applicant Officials and Employees.** No member, official, or employee of County or Applicant shall be personally liable to the other party, or any successor in interest, in the event of any default or breach by County or Applicant, or for any amount which may become due to County or Applicant, or its successor, or on any obligation under the terms of this Agreement.
22. **Release and Indemnification.** Applicant agrees to release County and its officers and employees from all liability arising from or related to this Agreement, as long as County performs its obligations to the extent required under the Agreement. Applicant further agrees to indemnify and hold harmless County and its officers and employees from and against all claims, losses, liabilities, damages, and expenses (including attorneys' fees) arising from County's performance of its obligations under this Agreement.
23. **Authority and Consent.** The Parties represent and warrant that each has the right, legal capacity and authority to enter into, and perform its respective obligations under this Agreement, and that no approvals or consents of any other person, other than the respective Party, are necessary.
24. **Waiver of Jury Trial.** The Parties waive the right to a jury trial in any action related to this Agreement or the relationship between their respective successors and assigns.

IN WITNESS WHEREOF, the Parties hereto have executed and approved this Agreement on the date set forth opposite their respective signatures on following page.

COUNTY:

Weber County,
a body politic and political subdivision of the State of Utah

By:

Date: _____

ATTEST:

Approved As to Form:

Office of County Attorney

APPLICANT:

OGDEN CITY, a Utah municipal corporation

By:

Date: _____

Benjamin K. Nadolski
Mayor

ATTEST:

City Recorder

Approved As to Form:

Office of City Attorney

Exhibit A

Legal Description of the Sending Property

Parcel 1:

Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning 80 Rods South of the Northeast Corner of the Northwest Quarter of said Section and running;

Thence West 984.37 feet;

Thence South 28°03' East 428.2 feet;

Thence South 285.0 feet;

Thence South 69°04" West 333 feet;

Thence North 67°41' West 433 feet;

Thence South 57°23' West 319.8 feet;

Thence South 24°11' East 581 feet;

Thence East 523.16 feet, more or less, to a point 1630.9 feet East of Southwest Corner of Northwest Quarter of said Section;

Thence South 85 feet;

Thence North 81°14' East 177.1 feet;

Thence North 13°47' East 466.2 feet;

Thence North 240 feet;

Thence North 62°30' East 400 feet;

Thence South 57°30' East 59 feet;

Thence North 83°07' East 321.6 feet;

Thence North 503.9 feet to beginning.

Land Serial No. 20-008-0006

Parcel 2:

Part of the Southwest Quarter of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning 1630.9 feet East from the Northwest Corner of said Southwest Quarter,

Thence South 85 feet;

Thence North 81°14' East 177.1 feet;

Thence North 13°47' East to the north line of said quarter section;

Thence West to beginning.

Land Serial No. 20-008-0011

Surveyed Description

Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning at the Southeast Corner of the Remainder Parcel on the Raccasi Subdivision, recorded in the office of the Weber County Recorder on September 7, 2001 as Entry no. 1793982 in Book 54 at Page 55, said point being South 0°25'02" West 1314.36 feet along the quarter section line from the North Quarter Corner of said Section 11, and running;

Thence South 0°25'02" West 494.84 feet along the quarter section line to a point South 0°25'02" West 1809.20 feet from the North Quarter Corner of said Section 11;

Thence South 83°32'02" West 321.60 feet;

Thence North 57°04'58" West 59.00 feet;

Thence South 62°55'02" West 400.00 feet,

Thence South 0°25'02" West 240.00 feet;

Thence South 14°12'02" West 405.13 feet to the quarter section line;

Thence South 14°12'02" West 60.86 feet;

Thence South 81°39'02" West 169.91 feet;

Thence North 0°25'02" East 85.00 feet to the quarter section line to a point being described as being 1630.9 feet East along the quarter section line from the West Quarter Corner of said Section 11;

Thence North 89°34'58" West 523.16 feet along the quarter section line;

Thence North 23°45'58" West 581.00 feet;

Thence North 57°48'02" East 319.80 feet;

Thence South 67°15'58" East 433.00 feet;

Thence North 69°29'02" East 333.00 feet;

Thence North 0°25'02" East 285.00 feet

Thence North 27°37'58" West 428.20 feet to the Southwest Corner of the Remainder Parcel on the aforementioned Raccasi Subdivision;

Thence South 89°34'58" East 984.37 feet along the south line to the Southeast Corner of the aforementioned Raccasi Subdivision, being the point of beginning.



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: File #ZDA2025-06, a request from Ogden City for a public hearing, discussion, and possible recommendation regarding a development agreement to preserve development rights, and to enable their transfer from land located at approximately 24 acres located in CVR-1 zone at approximately 800 North 5900 East.

Agenda Date: September 23, 2025

Applicant: Ogden City; Authorized Representative: Brady Herd

File Number: ZDA2025-06

Frontier Project Link: <https://frontier.co.weber.ut.us/p/Project/Index/23518>

Property Information

Approximate Address: 800 North 5900 East (Stringtown Road) in unincorporated Ogden Valley.

Current Zone(s): Commercial Valley Resort (CVR-1) Zone

Adjacent Land Use

North: Large-lot Agriculture and Residential **South:** Pineview Reservoir
East: Pineview Reservoir **West:** Pineview Reservoir

Staff Information

Report Presenter: Charlie Ewert
cewert@webercountyutah.gov
801-399-8763

Report Reviewer: RG

Applicable Ordinances

§Title 102, Chapter 6 Development Agreement Procedures
§Title 104, Chapter 11 Commercial Valley Resort (CVR-1) Zone

Legislative Decisions

When the Planning Commission is acting as a recommending body to the County Commission, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Legislative actions require that the Planning Commission give a recommendation to the County Commission. For this circumstance, criteria for recommendations in a legislative matter require a review for compatibility with the general plan and existing ordinances.

Summary

The purpose of the proposed development agreement is to vest Ogden City's wellhead property in its currently allowed zoning density for a time, and to preserve the right to transfer that density from the property (the sending property) to another property (the receiving property) whereon transferable rights are allowed to be received. Ogden City maintains that under existing zoning the property can sustain 521 dwelling units, and are requesting the entire amount be preserved for the purpose of later transfer. They are not, at this time, proposing the onsite construction of any of those development rights, preferring, to send them from the property to protect their nearby wellheads.

The planning commission must determine whether the proposal offers sufficient mutual consideration necessary for the county to enter into a development agreement with the applicant. If approved, the development agreement

will become applicable/enforceable to/by the new city once the city assumes responsibility as the area's land use authority.

Policy Analysis

Ogden City has purchased Parcel #20-008-0006 and Parcel #20-008-0011 at the end of Stringtown Road. The surveyed acreage of the parcels total 24.047 acres.

The applicant is requesting to be vested in the maximum development right potential of the property for the purpose of later transferring those development rights (TDRs) to another property. Currently, the Ogden Valley unincorporated area has two zones that enable transferable rights. The Form-Based zone and the Destination Recreation Resort zone are designated as "receiving areas" for TDRs, and both zones allow TDRs to be sent from sending areas that include property within the CVR-1 zone.

Today, if Ogden City had a buyer for all of the subject development rights that owns property in the FB and DRR-1 zones, the county would be required to allow the transfer to occur. However, the right to transfer is not vested until the transfer actually occurs in compliance with the adopted process of those zones. So, without a buyer the city is not currently vested. Thus their request for a development agreement, which would vest the rights to the property without the initial requirement for them to be transferred.

The question of whether or not the site's development rights should be allowed to be transferred should be closely tied to whether it is actually viable for any of them to exist on the subject property in the first place. It might be disingenuous to the purpose of transferring units to allow units that are not realistically viable to be transferred because this, in theory, would be creating additional dwelling units that would not otherwise exist if not for the allowance of the transfer. The following offers an analysis of potential viability.

The CVR-1 zone's density can be derived from the land area required. The zone requires at least 7,500 square feet of land for each building, and 2,000 square feet of land for each unit in excess of two units per each building. On this 24.047 acre property (1,047,487.32 square feet), a development that is within a single building would be allowed no more than 521 dwelling units. If more buildings, the number of allowed units decreases. The following table explains how:

Number of Bldgs	Minimum Area Req'd per Bldg	Base Units	Remaining Site Area	Additional Units Allowed	Total Allowed Units
<i>Note:</i>		<i>2 per Building</i>	<i>Site Area (1,047,487 SQFT) Minus Min Area Req'd per Building</i>	<i>Remaining Site Area Divided by 2,000 SQFT</i>	<i>Base Units Plus Additional Units Allowed</i>
1	7,500 SQFT	2	1,039,987 SQFT	519.99	521.99
2	15,000 SQFT	4	1,032,487 SQFT	516.24	518.24
5	37,500 SQFT	10	1,009,987 SQFT	504.99	506.99
10	75,000 SQFT	20	972,487 SQFT	486.24	488.24
20	150,000 SQFT	40	897,487 SQFT	448.74	450.74

However, in order for these units to be viable they would need to be served by a sanitary sewage disposal system and no such system exists near the subject property at this time. It would also require significant investment into a street network, as the property is only served by a single point of access and any development greater than 30 units requires a second egress.

Sanitary Sewer.

It would seem imprudent to require that a sewer system be created in order to prove viability. Likewise, it would seem imprudent to award the financial value of 521 development rights knowing that, if developing those units onsite, part of the overall return on investment would be related to the cost of installing a sewer system.

There has been some speculation from the planning commission regarding whether the site could actually be served with a sewer system given the proximity to the city's wellheads. County code (Sec 108-18-6) does not permit any part of a sewer facility, including sewer lines, to be located within 150 feet of a wellhead, nor does it allow septic systems and other source contaminants to be located anywhere within a wellhead's Ground Water Source Protection Zone 1. Zone 1 is defined as the area within 100 feet of a wellhead.

Except areas within 150 feet of a wellhead, sewer lines are allowed in a wellhead's Ground Water Source Protection Zone 2, as are "single-family and multiple-family dwellings, commercial, or institutional uses..." (Sec 108-18-5).

Figures 1-3 illustrate the established Ground Water Source Protection Zones for the Ogden City wells. The only potential concern staff can identify regarding whether sewer lines can be established in a manner that does not run through a Zone 1 protection area is in relation to Ogden City's northeastern-most wellhead. This wellhead is near an area where the city's property bottlenecks to a relatively narrow opening, making it unclear whether sufficient distance can be established from the wellhead. This issue may be irrelevant if the sewer parts of the development are kept exclusively to the ten acres north of the bottleneck, leaving the southern 14 acres for development purposes that do not require sewer services, such as parking, landscaping, resort amenities, etc.

Based on the Drinking Water Source Protection ordinance, it appears a sewage treatment facility

Figure 1: Ground Water Source Protection Zones for Ogden City Wells

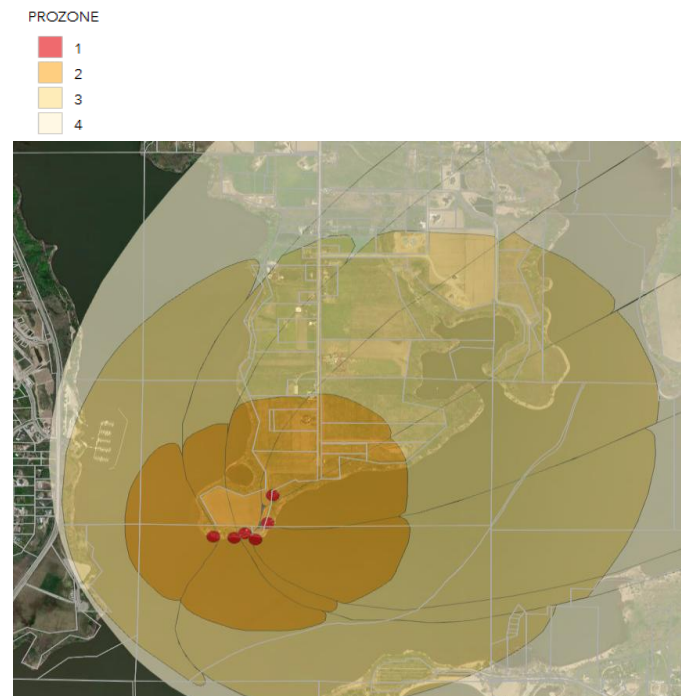


Figure 2: Zoomed Ground Water Source Protection Zones for Ogden City Wells



may be located within a Zone 2 area. A treatment facility is defined as a “potential contamination source,” and a potential contamination source only appears to be explicitly prohibited in a Zone 1. Whether placed on the property or offsite, it would appear a treatment facility could be permitted in the area outside a wellhead’s Zone 1. A septic system, however, is not permissible in Zone 1 or Zone 2.

Access and Egress.

The second biggest challenge with developing the property is access and egress. Currently there is only a single road, 5900 East (Stringtown Road) that provides access to the property. Stringtown Road is a single access road from 1900 North to the property. County code currently only allows up to 30 dwelling units on a single access road. It may be possible to provide a return street back to 1900 North, but it would require the acquisition of a new right-of-way through 10-15 other private properties. Or it would require new legislative action allowing the development despite the single access road.

Size and Scale.

In the CVR-1 zone, the maximum building height is 50 feet. Therefore a building therein could contain up to five stories. To help conceptualize such a scale in relation to the total number of units allowed consider the following generalized examples:

If one large 5-story building is constructed to house the maximum 521 units, and 65-75 percent of the building is devoted to an average 1,000 square foot units, this would require a building footprint of 120,000-160,000 square feet (approx. 2.75-3.67 acres). If that percentage is devoted to 2,500 square foot units it would require a building footprint of 360,000-400,000 square feet (approx. 8.26-9.18 acres).

On the other hand, if 10 smaller five story buildings are constructed to house the maximum 488 units with the same percentage of building area devoted to units, then if averaging 1,000 square-foot units this would require 130,000-150,000 in total building footprint, or an average of 13,000 to 15,000 square feet per building footprint. If the units averaged 2,500 square feet, then this would require 325,000-375,000 square feet in total building footprint, or an average of 32,500-37,500 square feet per building footprint.

Viability.

Considering the above evaluation, the property could conceptually accommodate the maximum density allowed in the CVR-1 zone. It would require significant investments in sewer and street infrastructure first. The scale of the development would be significant considering the surrounding relatively vacant properties, but if it was proposed today, the county would likely be required to approve it.

Feasibility.

When it comes to TDRs, there is some sentiment regarding not enabling transfers of units that are not likely to occur at this time due to marketability. Whether or not a large-scale resort-oriented development on this property is financially feasible in today’s market is yet to be explored. When considering marketability of the property in the context of transferable development rights, it may seem prudent to consider the rate of return that the current market could support for an actual development on the site and compare it to the potential return if all of the units are

Figure 3: Ogden City’s Northeastern Wellhead



transferred from the site. This analysis would help determine whether the financial motivation to transfer significantly exceeds the financial motivate to develop in place.

In order for transfers to work given existing development regulations and market constraints, there must be more financial motivation to transfer units than there are to develop those units in place. However, if the planning commission is concerned about taking units from a property whereon the units may be significantly less feasible to construct, and transferring them to a property whereon the units would be significantly more feasible to construct, this might be viewed as increasing the area's density before the market would otherwise sustain it. This is certainly a risk worth considering. Waiting until the units become more feasible onsite before allowed them to be transferred offsite is a gamble the planning commission should consider carefully.

It should be noted that when developing the FB zone's TDR programs, both the planning commission of the time and the county commission of the time were emphatic that the county's process not consider the value of transfers or their potential market constraints. There was strong direction at the time to enable transfers to occur with limit government intrusion, and let the private market determine feasibility and value. Thus the current ordinances do not take into consideration the risk analysis provided above.

Planning Commission Considerations

The fundamental question for the planning commission to consider for this request is the question of consideration. Is the applicant volunteering sufficient consideration in exchange for their request? If adequate mutual consideration is not attained, then there is not likely a reason for the county to enter into an agreement. If the offered consideration is insufficient, it may be worthwhile to have a discussion with the city to determine what types of consideration, if any, would make the city's request more tenable.

Staff Consideration

So long as the property remains zoned CVR-1, whether development on the property is marketable today versus if the units were transferred elsewhere is not a topic staff recommends considering. This is because over time, as the valley builds out, site and local financial constraints (like the potential expansion of sewer and streets to the area) are likely to diminish, and market forces for development on property is likely to increase. Therefore, unless the development rights assigned to the property are in some other manner eliminated, the likelihood that a development on the subject site becomes feasible will continue to increase in time. Regardless of today's market motivations, if not taking the opportunity to transfer those units at this time from the property, to be assigned to a location better suited for it, the community risks missing the opportunity to do so in the future prior to shifting motivations.

For this consideration, staff has ignored the fact that Ogden City's motivations as a city may not be the same as those of a prospective developer/landowner. While the differences in motivation are clear, a worst-case scenario for this property is if the city allows it to be developed in a manner of their choosing in an effort to recoup their costs of purchasing it. Thus, staff has approached the review as if the city may have the same motivations as other prospective landowners.

Staff will have additional review comments for the proposed development agreement (attached Exhibit A) at a later time. It seems more prudent for the planning commission to address the above outstanding considerations before staff invests time in providing more detailed evaluation of the nuances in the proposed agreement. Should the planning commission desire to forward a positive recommendation to the county commission it may be prudent to do so after a more complete staff and legal review has been conducted.

Model Motions

The model motions herein are only intended to help the planning commissioners provide clear and decisive motions for the record. Any specifics provided here are completely optional and voluntary. Some specifics, the inclusion of which may or may not be desired by the motioner, are listed to help the planning commission recall previous points of discussion that may help formulate a clear motion. Their inclusion here, or any omission of other previous points of discussion, are not intended to be interpreted as steering the final decision.

Motion for positive recommendation as-is:

I move we forward a positive recommendation to the County Commission for File #ZDA2024-02, a request from Ogden City for a public hearing, discussion, and possible recommendation regarding a development agreement

to preserve development rights, and to enable their transfer from land located at approximately 24 acres located in CVR-1 zone at approximately 800 North 5900 East.

I do so with the following findings:

Example findings:

1. *After the considerations listed in this recommendation are applied through a development agreement, the proposal generally supports and is anticipated by the vision, goals, and objectives of the Ogden Valley General Plan.*
2. *The project is not detrimental to the overall health, safety, and welfare of the community and provides for better project outcomes than the alternative.*
3. *A negotiated development agreement is the most reliable way for both the county and the applicant to realize mutual benefit.*
4. *The changes are supported by the General Plan.*
5. *The proposal serves as an instrument to further implement the vision, goals, and principles of the General Plan*
6. *The changes will enhance the general health and welfare of residents.*
7. _____ add any other desired findings here _____].

Motion for positive recommendation with changes:

I move we forward a positive recommendation to the County Commission for File #ZDA2024-02, a request from Ogden City for a public hearing, discussion, and possible recommendation regarding a development agreement to preserve development rights, and to enable their transfer from land located at approximately 24 acres located in CVR-1 zone at approximately 800 North 5900 East.

I do so with the following additional findings, edits, and/or corrections:

Example of ways to format a motion with changes:

1. *Example: Add a requirement for roadside beautification, water wise vegetation, and street art/décor to the development agreement for the two collector streets in the development. Include decorative night sky friendly street lighting at reasonable intervals.*
2. *Example: Amend staff's consideration item # []. It should instead read: [desired edits here].*
3. *Etc.*

I do so with the following findings:

Example findings:

1. *[Example: Amend staff's finding item # []. It should instead read: [desired edits here].*
2. *[Example: allowing carte-blanche short-term rentals runs contrary to providing affordable long-term ownership or rental opportunities].*
3. *The proposed changes are supported by the General Plan. [Add specifics explaining how.]*
4. *The proposal serves as an instrument to further implement the vision, goals, and principles of the General Plan.*
5. *The changes will enhance the general health, safety, and welfare of residents.*
6. *Etc.*

Motion to recommend denial:

I move we forward a negative recommendation to the County Commission for File #ZDA2024-02, a request from Ogden City for a public hearing, discussion, and possible recommendation regarding a development agreement to preserve development rights, and to enable their transfer from land located at approximately 24 acres located in CVR-1 zone at approximately 800 North 5900 East.

I do so with the following findings:

Examples findings for denial:

- *Example: The proposal is not adequately supported by the General Plan.*
- *Example: The proposal is not supported by the general public.*
- *Example: The proposal runs contrary to the health, safety, and welfare of the general public.*
- *Example: The area is not yet ready for the proposed changes to be implemented.*
- [add any other desired findings here].

Exhibits

Exhibit A: Proposed Development Agreement

AGREEMENT

THIS AGREEMENT ("Agreement") for registration of transferrable development rights dated this ____ day of _____, 20__ (the "Effective Date") is made between Weber County, a Utah political subdivision, (County), and Ogden City, A Utah municipal corporation ("Applicant"). County and Applicant are referred to collectively herein as the "Parties" and sometimes individually as a "Party."

RECITALS:

- A. Applicant is the fee simple owner of certain property located in Weber County, State of Utah, which property is more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Sending Property"); and
- B. The Sending Property is highly visible from throughout the Ogden Valley and is located in an area valued for its agricultural and open space characteristics.
- C. The Sending Property is located in an area zoned as Commercial Valley Resort Recreation Zone (CVR-1) which allows for service facilities and goods normally required by the public in the pursuit of general recreation activities and the construction of dwelling units.
- D. Applicant desires to register the allowed dwelling units associated with the sending property for use in existing and future areas where the transfer of development rights is allowed.
- E. County and Applicant recognize that a transfer of development rights program requires availability of dwelling units for transfer and that the recognition of the units described in this Agreement will assist in operating such a program now and in the future.
- F. Applicant intends to use the sending property for the operation of water wells together with treatment or other facilities associated with the production, storage and delivery of water. Applicant is entering into this Agreement with the understanding that such uses will be protected and that it will be able to restrict public access to the sending property and to use the sending property for agricultural purposes and other uses consistent with this Recital F.

NOW, THEREFORE, the Parties hereto intending to be legally bound and in consideration of the respective undertakings made and described herein, do agree as follows:

1. **Sending Property.** The sending property, comprised of 24.047 acres and located generally at 989 North 5900 East (Stringtown Road), is more fully described on Exhibit A, attached hereto and incorporated herein by reference.
2. **Sending Property Details.** The sending property:

- a. Is zoned as CVR-1, which allows for a maximum number of residential units based on parcel size.
 - b. Does not contain slopes of 30% or greater;
 - c. Is not subject to an irrevocable transfer of development rights easement reserved for future development;
 - d. Is not designated as a reserved future development area on an approved transferable development right site plan;
 - e. Is not restricted by a conservation easement or similar instrument restricting residential or commercial development;
 - f. Is not owned by the federal government or a state government agency;
 - g. Is located within the Ogden Valley Area;
 - h. Is not a lot of record subject to the payment of fees for operation and/or maintenance of common areas, open space, amenities and/or private facilities;
 - i. Is not a fractional and/or noncontiguous portion of a lot of record or parcel of land that does not meet or fully exceed the minimum area requirement for the CVR-1 zone.
 - j. Is owned by Applicant in fee simple absolute and is not encumbered by any mortgage, trust deed, loan or other security instrument.
3. **Calculation of Density.** The sending property could be developed in the CVR-1 Zone with 521 dwelling units (Transferable Units) , calculated as follows:

Acres: 24.047 / 1,047,487 sq. ft.	Total Square Footage	Number of Transferrable Units
First 2 Dwelling Units (at 7,500 sq. ft.)	7,500	2
Additional Dwelling Units (at 2,000 sq. ft. per unit)	1,038,000	519
Total	1,045,550	521

The Transferable Units are hereby registered for use as part of existing or future transfer of development rights programs and ordinances adopted by County and as further described in this Agreement.

4. **Applicant's Obligations.** By entering into this Agreement, Applicant agrees to limit its right to develop the number of dwelling units which it would otherwise be allowed to construct under the CVR-1 zone as Transferrable Units are transferred.
- a. Applicant will not fractionalize or transfer Transferrable Units except in whole numbers.
 - b. Applicant reserves the right to restrict public access to the sending property, to use the sending property for agricultural purposes and to use the sending property for the operation of water wells together with treatment or other facilities associated with the production, storage and delivery of water.
 - c. Applicant will participate in a transferrable development rights bank, marketplace or other system that may be established by County and required of all other transferrable rights as part of a transfer of development rights program.

- d. Applicant will continue to be responsible for and bear all costs and liabilities of any kind related to ownership, operation, upkeep and maintenance of the sending property.
5. **County's Obligations.** The parties understand that County ordinances currently allow for the transfer of density only to the Destination and Recreation Resort Zone (DRR -1). By entering into this Agreement, County agrees that:
 - a. Applicant retains the right to restrict public access to the sending property, to use the sending property for agricultural purposes and the ability to use the sending property for the operation of water wells together with treatment or other facilities associated with the production, storage and delivery of water.
 - b. The Transferable Units may be transferred to the DRR-1 zone and any other zone within Ogden Valley that, at the time of a transfer, is designated as a receiving area for transferrable density, subject to any required administrative process to certify and confirm the number of units being transferred and the number of Transferable Units remaining available under this Agreement and the payment of any applicable fee to recognize the transfer.
 - c. Upon transfer, Applicant's Transferrable Units shall be recognized in no less than a 1 to 1 ratio, so that for each Transferrable Unit transferred to a receiving zone, the receiving area development shall be able to construct at least 1 dwelling unit.
 - d. If bonus units are allowed as part of the ordinance or regulations permitting the transfer of development density to a particular receiving area, the Transferable Units shall be eligible to be considered for such bonus if they otherwise meet the requirements associated with such bonus.
 - e. The rights described in this Agreement are vested and the number of Transferable Units will not be altered or diminished by any future rezoning of the sending property, changes to the general plan or land use ordinances applicable to the sending property.
 - f. The Transferrable Units recognized in this Agreement will not be subject to any inferior treatment or additional limitations that are not imposed on other transferrable rights allowed to be transferred to a particular receiving area.
 - g. The Transferrable Units may be transferred over time and to more than one receiving area and will not be limited based on a receiving area accepting development rights from more than one sending site.
 - h. The sales price for Transferrable Units will not be regulated or limited by County.
6. **Easement.** The parties acknowledge that County ordinances may require the use of a conservation or other easement as part of a transfer of development rights program. Any such easement shall include terms that reflect the provisions and intent as described in this Agreement. Recognizing that Transferrable Units will likely be transferred over time, these documents will be applied to the property from south to north so that the southerly portion of the sending property is subject to restrictions before the north portion of the property is subject to such restrictions.
7. **Term.** The Transferrable Units shall be available for use and transfer under this Agreement for a period of one hundred years from the Effective Date. Any Transferrable Units that have not been transferred at that time shall revert to use on the Sending

Property.

8. **Amendment.** Any amendment, modification, termination, or rescission affecting this Agreement shall be made in writing, signed by the Parties, and attached hereto.
9. **No Joint Venture.** Nothing contained in this Agreement shall be construed as creating a joint venture, partnership or association between the County and Applicant. Each Party hereto is a separate and independent entity acting on its own behalf.
10. **Default.** In the event of default by either Party to this Agreement in any of the terms, provisions, covenants, or agreements to be performed by said Party under this Agreement and said defaulting Party fails to cure such default within sixty (60) days after written demand by the other Party, then the Party providing said notice of default shall thereafter have no further obligations to the defaulting Party hereunder. The defaulting Party shall be liable to the non-defaulting Party for any and all damages, costs and expenses incurred by the non-defaulting Party caused by the defaulting Party. Nothing herein shall limit the remedies in law or in equity available to the non-defaulting Party in the event this Agreement is terminated due to the default of a Party.
11. **Successors.** This Agreement shall be binding upon, and inure to the benefit of, the legal representatives, successors and assigns of the Parties hereto.
12. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.
13. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.
14. **Counterparts.** This Agreement may be executed in one or more duplicate originals, each of which shall be deemed to be an original.
15. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.
16. **Captions.** The Captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

17. **Integration.** This Agreement contains the entire and integrated agreement of the Parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducement, or understandings between the Parties and not contained herein shall be of any force or effect.
18. **No Presumption.** This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either County or Applicant. Each Party represents and warrants to the other Party that it has been represented by, and has had the opportunity to consult with, legal counsel in connection with the review, negotiation and execution of this Agreement.
19. **Further Acts.** In addition to the acts or documents contemplated to be performed, executed, and delivered by County and Applicant, County and Applicant agree to perform, execute, and deliver or cause to be performed, executed, and delivered any and all such further acts, documents and assurances as may be necessary to consummate the transactions contemplated hereby.
20. **Non-liability of County or Applicant Officials and Employees.** No member, official, or employee of County or Applicant shall be personally liable to the other party, or any successor in interest, in the event of any default or breach by Agency, or for any amount which may become due to County or Applicant, or its successor, or on any obligation under the terms of this Agreement.
21. **Authority and Consent.** The Parties represent and warrant that each has the right, legal capacity and authority to enter into, and perform its respective obligations under this Agreement, and that no approvals or consents of any other person, other than the respective Party, are necessary.
22. **Waiver of Jury Trial.** The Parties waive the right to a jury trial in any action related to this Agreement or the relationship between their respective successors and assigns.

IN WITNESS WHEREOF, the Parties hereto have executed and approved this Agreement on the date set forth opposite their respective signatures below.

COUNTY:

Weber County,
a body politic and political subdivision of the State of Utah

By:

Date: _____

ATTEST:

Approved As to Form:

Office of County Attorney

APPLICANT:

OGDEN CITY, a Utah municipal corporation

By:

Date: _____

Ben Nadolski
Mayor

ATTEST:

City Recorder

Approved As to Form:

Office of City Attorney

Exhibit A

Legal Description of the Sending Property

Parcel 1:

Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning 80 Rods South of the Northeast Corner of the Northwest Quarter of said Section and running;

Thence West 984.37 feet;

Thence South 28°03' East 428.2 feet;

Thence South 285.0 feet;

Thence South 69°04" West 333 feet;

Thence North 67°41' West 433 feet;

Thence South 57°23' West 319.8 feet;

Thence South 24°11' East 581 feet;

Thence East 523.16 feet, more or less, to a point 1630.9 feet East of Southwest Corner of Northwest Quarter of said Section;

Thence South 85 feet;

Thence North 81°14' East 177.1 feet;

Thence North 13°47' East 466.2 feet;

Thence North 240 feet;

Thence North 62°30' East 400 feet;

Thence South 57°30' East 59 feet;

Thence North 83°07' East 321.6 feet;

Thence North 503.9 feet to beginning.

Land Serial No. 20-008-0006

Parcel 2:

Part of the Southwest Quarter of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning 1630.9 feet East from the Northwest Corner of said Southwest Quarter,

Thence South 85 feet;

Thence North 81°14' East 177.1 feet;

Thence North 13°47' East to the north line of said quarter section;

Thence West to beginning.

Land Serial No. 20-008-0011

Surveyed Description

Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Beginning at the Southeast Corner of the Remainder Parcel on the Raccasi Subdivision, recorded in the office of the Weber County Recorder on September 7, 2001 as Entry no. 1793982 in Book 54 at Page 55, said point being South 0°25'02" West 1314.36 feet along the quarter section line from the North Quarter Corner of said Section 11, and running;

Thence South 0°25'02" West 494.84 feet along the quarter section line to a point South 0°25'02" West 1809.20 feet from the North Quarter Corner of said Section 11;

Thence South 83°32'02" West 321.60 feet;

Thence North 57°04'58" West 59.00 feet;

Thence South 62°55'02" West 400.00 feet,

Thence South 0°25'02" West 240.00 feet;

Thence South 14°12'02" West 405.13 feet to the quarter section line;

Thence South 14°12'02" West 60.86 feet;

Thence South 81°39'02" West 169.91 feet;

Thence North 0°25'02" East 85.00 feet to the quarter section line to a point being described as being 1630.9 feet East along the quarter section line from the West Quarter Corner of said Section 11;

Thence North 89°34'58" West 523.16 feet along the quarter section line;

Thence North 23°45'58" West 581.00 feet;

Thence North 57°48'02" East 319.80 feet;

Thence South 67°15'58" East 433.00 feet;

Thence North 69°29'02" East 333.00 feet;

Thence North 0°25'02" East 285.00 feet

Thence North 27°37'58" West 428.20 feet to the Southwest Corner of the Remainder Parcel on the aforementioned Raccasi Subdivision;

Thence South 89°34'58" East 984.37 feet along the south line to the Southeast Corner of the aforementioned Raccasi Subdivision, being the point of beginning.

CALL BLUESTAKES
@ 1-800-982-4111 AT LEAST 48
HOURS PRIOR TO THE
COMMENCEMENT OF ANY
CONSTRUCTION.

BENCHMARK
EDEN UTAH MONUMENT
LOCATED AT THE INTERSECTION OF 1900 NORTH &
5900 EAST, NORTH EAST CORNER OF INTERSECTION.
CAP FALLS 33 FEET NORTH OF THE CENTERLINE OF
1900 NORTH AND 8.6 FEET WEST OF A FENCE CORNER
AND 1 FOOT SOUTH OF FENCE.
ELEVATION = 4933.91

SURVEYOR'S CERTIFICATE

I, Keith R. Russell, do hereby represent that I am a Professional Land Surveyor and that I hold Certificate No. 164386 as prescribed by the laws of the State of Utah and I have made a survey of the following described property. The purpose of this survey is to evaluate the current legal description and determine where the error that causes the parcel not to "close" occurs and correct the error with a new legal description. In addition, the survey will be an ALTA/ACSM Land Title Survey and show easements of record and existing information on the ground. (fence lines, street improvements, dirt roads, public utilities, etc.) that affect the property. I have matched a recorded subdivision known as Raccasi Subdivision by Landmark Surveying and Engineering, Inc. and signed by Doug L. Graham filed in the office of the Weber County Recorder, Entry No. 1793982, dated September 7, 2001 for the north line of the property. I have matched the legal descriptions on the west, south and east sides of the property that define the U.S.A. Property known as Pineview Reservoir. I have added language in the "Surveyed Description" that tie to the subdivision plat and to the U.S.A. Property. The current legal description has a call of "South 28°03'00" West 333.00 feet for the fourth call. This is the same bearing numbers as the second call and I surmise that a mistake was made in an earlier deed where these bearing numbers were duplicated by a typing error. There are numerous documents that have the bearing in the fourth call as South 69°04'00" West 333.00 feet. Those documents include; a) the U.S.A. Parcel to the west of the subject property, which is a common line, b) the description of the property in the deed for Application for Assessment on the Farmland Assessment Act of 1969, (Schedule B-2, item no. 11 of the title report, Entry No. 1304539, Book 1725, Page 1119, c) The descriptions in the Order of Condemnation document, (Schedule B-2, item no. 17 of the title report, Recorded December 27, 1957, Book 567, Page 461 and March 19, 1958, Book 574, Page 282, and d) the current Ownership Map on file in the office of the Weber County Recorder shows the bearing and distance along this line as South 69°04' West 333'. My conclusion is that clearly a typographical error was made on this line in a previous deed that has been perpetuated. In following the boundary lines of the neighboring parcels as described above I have "forced" a closure on the "Surveyed Description" to eliminate any closure error, gaps or overlaps with the neighboring properties. The Basis of Bearing is as noted on the drawing portion of this drawing from found Weber County Section Centers at the North Quarter Corner of Section 11 and the North Quarter Corner of Section 2, Township 6 North, Range 1 East, Salt Lake Base and Meridian with a bearing of North 0°35'38" East. This is also the center line of 5900 East Street. For the quarter section line from the North Quarter Corner of Section 11 to the Center of Section 11, (not found) I used South 0°25'02" West, which is being used on the Raccasi Subdivision referenced above.

To: Fritz Faulhaber and Catherine Faulhaber, as their interests may appear as to Parcel 1 and Catherine Faulhaber, as to Parcel 2.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 4, 8, 11(a) and 13 of Table A thereof. The field work was completed on January 14, 2014.

Date of Plat of Map: January 28, 2014
Keith R. Russell
License no. 164386

Parcel Description	Deed Description
Parcel 1:	Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;
Parcel 2:	Part of the Southwest Quarter of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;

Parcel 1:
Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;
Beginning 80 Rods South of the Northeast Corner of the Northwest Quarter of said Section and running;
Thence West 984.37 feet;
Thence South 28°03' East 428.2 feet;
Thence South 285.0 feet;
Thence South 28°00'33" West 333 feet;
Thence North 67°41' West 433 feet;
Thence South 57°23' West 319.8 feet;
Thence South 24°11' East 581 feet;
Thence East 523.16 feet, more or less, to a point 1630.9 feet East of Southwest Corner of Northwest Quarter of said Section;
Thence South 85 feet;
Thence North 81°14' East 177.1 feet;
Thence North 13°47' East 466.2 feet;
Thence North 240 feet;
Thence North 62°30' East 400 feet;
Thence South 57°30' East 59 feet;
Thence North 83°07' East 321.6 feet;
Thence North 503.9 feet to beginning.

Parcel 2:
Part of the Southwest Quarter of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;
Beginning 1630.9 feet East from the Northwest Corner of said Southwest Quarter;
Thence South 85 feet;
Thence North 81°14' East 177.1 feet;
Thence North 13°47' East to the north line of said quarter section;
Thence West to beginning.

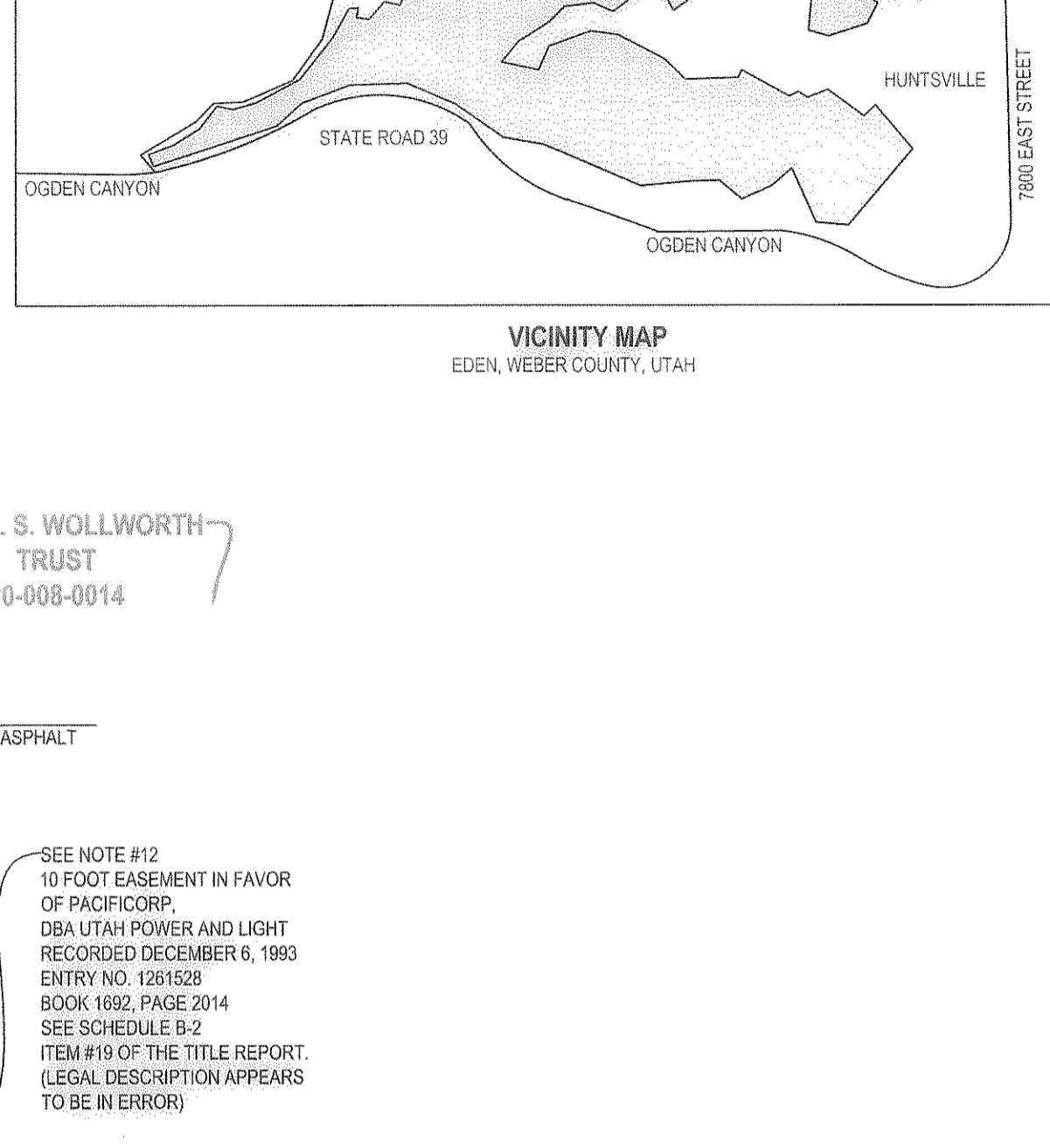
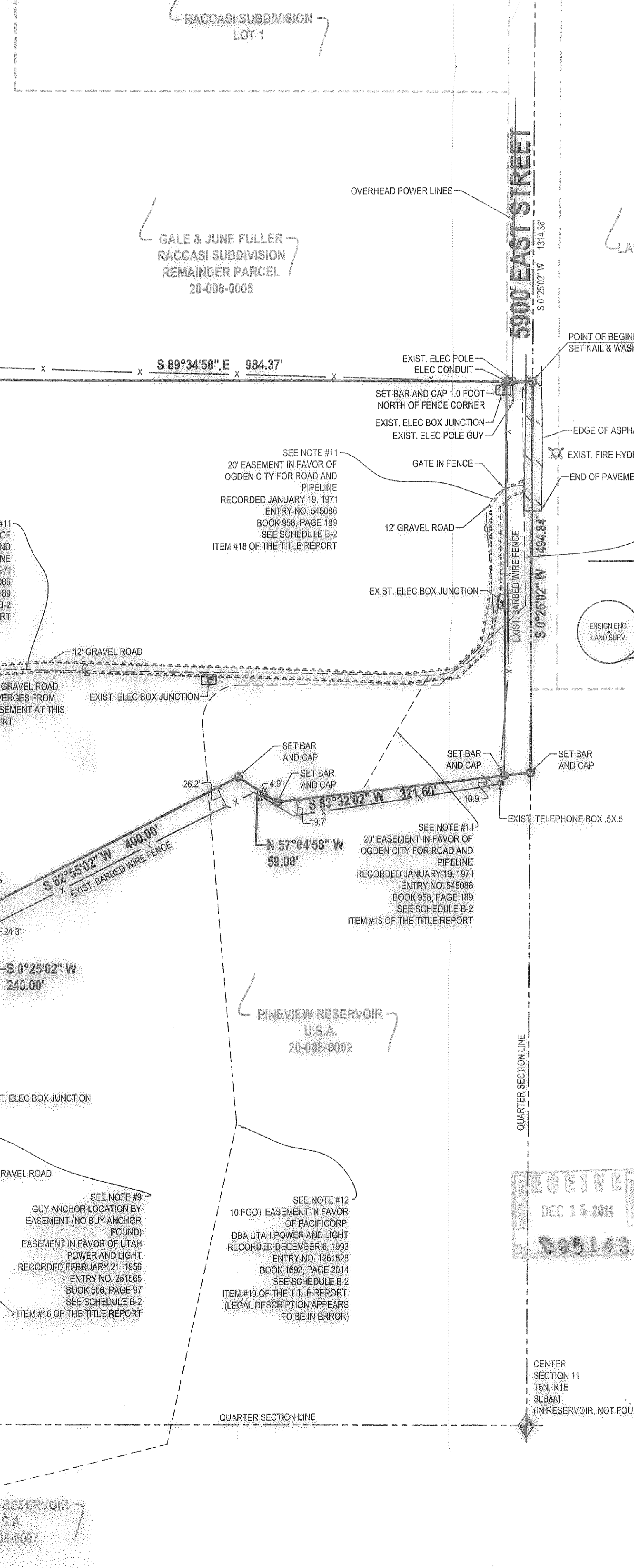
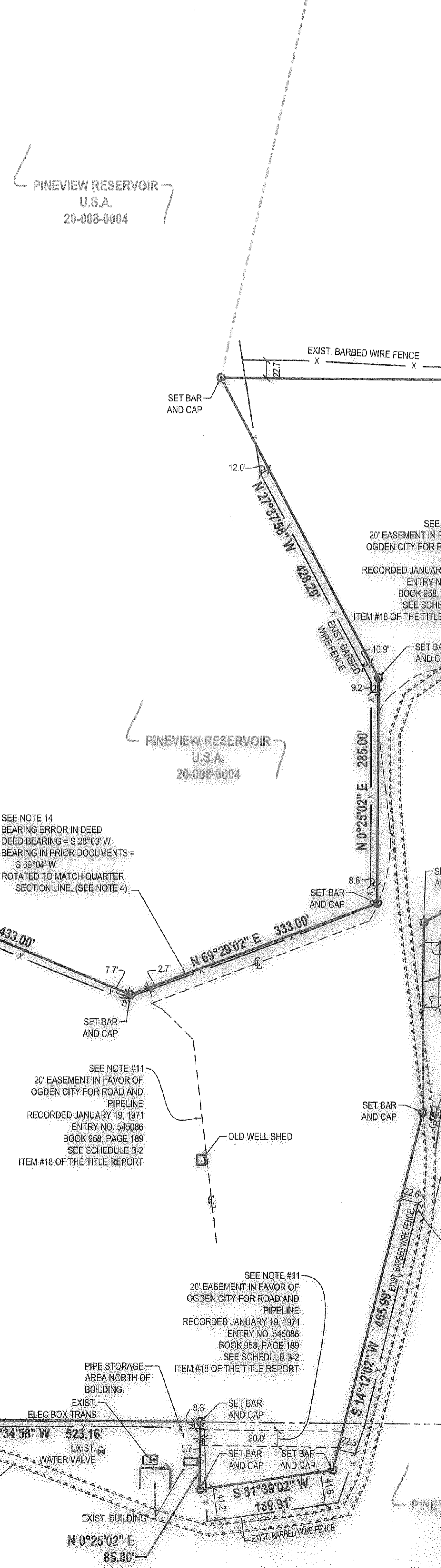
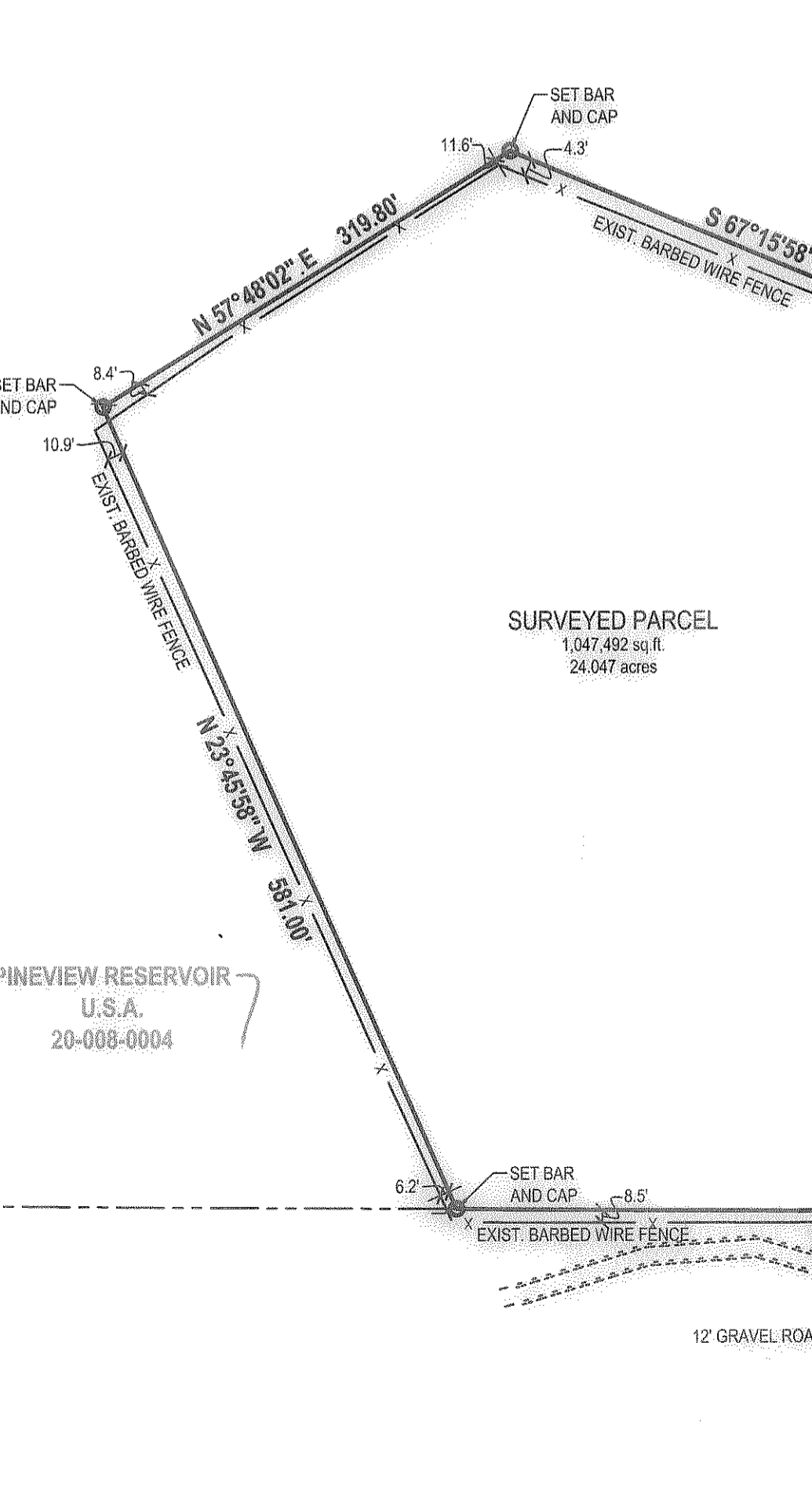
Surveyed Description
Part of the West 1/2 of Section 11, Township 6 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey;
Beginning at the Southeast Corner of the Remainder Parcel on the Raccasi Subdivision, recorded in the office of the Weber County Recorder on September 7, 2001 as Entry No. 1793982 in Book 54 at Page 55, said point being South 0°25'02" West 1314.36 feet along the quarter section line from the North Quarter Corner of said Section 11, and running;

Thence South 0°25'02" West 494.84 feet along the quarter section line to a point South 0°25'02" West 1809.20 feet from the North Quarter Corner of said Section 11;
Thence South 83°32'02" West 321.60 feet;
Thence North 57°04'58" West 59.00 feet;
Thence South 62°55'02" West 400.00 feet;
Thence South 0°25'02" West 240.00 feet;
Thence South 14°12'02" West 405.13 feet to the quarter section line;
Thence South 14°12'02" West 60.86 feet;
Thence South 81°39'02" West 169.91 feet;
Thence North 0°25'02" East 85.00 feet to the quarter section line to a point being described as being 1630.9 feet East along the quarter section line from the West Quarter Corner of said Section 11;
Thence North 89°34'58" West 523.16 feet along the quarter section line;
Thence North 23°45'58" West 581.00 feet;
Thence North 57°48'02" East 319.80 feet;
Thence South 67°15'58" East 433.00 feet;
Thence North 69°29'02" East 333.00 feet;
Thence North 0°25'02" East 285.00 feet;
Thence North 27°37'58" West 428.20 feet to the Southwest Corner of the Remainder Parcel on the aforementioned Raccasi Subdivision;
Thence South 89°34'58" East 984.37 feet along the south line to the Southeast Corner of the aforementioned Raccasi Subdivision, being the point of beginning.

Contains 1,047,492 square feet, 24,047 acres.

Notes:

- For conditions of record not shown hereon as well as specific references to items in the title report, please refer to a title report supplied by First American Title Insurance Company National Commercial Services of Salt Lake City, Utah, under Order No. NCS-647086-SLC1, dated effective December 30, 2013.
- Schedule B-2, items no. 1-7 are general exceptions that cannot be plotted.
- Schedule B-2, items no. 8 and 9 are general property tax information and cannot be plotted.
- Schedule B-2, items no. 10 and 11 refer to "The effect of the 1969 Farmland Assessment Act" and the 5 year roll back provision and cannot be plotted.
- Schedule B-2, item no. 12 refers to charges for Government services or Service District services and assessments and cannot be plotted.
- Schedule B-2, item no. 13 refers to the rights of the public to use or pass through the land for recreational purposes and/or access to Pineview Reservoir and cannot be plotted.
- Schedule B-2, item no. 14 refers to any adverse claim based upon the assertions that some portion of the land has been removed from or brought within the boundaries thereof by an avulsive movement of the Pineview Reservoir / Ogden River or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portions so created and cannot be plotted.
- Schedule B-2, item no. 15 refers to any prior reservations and/or any minerals in or under said land and cannot be plotted.
- Schedule B-2, item no. 16 is an easement in favor of Utah Power and Light Company and is partially plotted on the drawing as best as can be determined. The easement references Lots in the Froerer Subdivision as the "tie" points. The subdivision is not recorded in the office of the Weber County Recorder, nor is there any information in the Weber County Surveyor's Office for this subdivision. Consequently the location of the easement is difficult to determine. There are "ties" to two separate guy anchors from the Northwest Corner of Section 11 and I have used this information to plot the location of the guy anchors, but have not shown a location for the actual easement line due to its reference to Froerer Subdivision. There are no guy anchors, poles or overhead power lines on the property other than a pole and guy anchor at the Northwest Corner of the site. This easement suggests overhead power and guy anchor wires, which do not exist on the property. Evidence at the site suggests this electrical transmission line has been installed underground with ground electrical boxes as shown.
- Schedule B-2, item no. 17 refers to reservations, covenants, conditions, restrictions as set forth in Order of Condemnation. The parcels in this condemnation are adjacent to the boundary of the subject parcel on the west, south and east and are noted on the drawing.
- Schedule B-2, item no. 18 refers to terms and provisions contained in an Easement for Road and Pipeline and is plotted on the drawing. There is a road across the property that has been plowed for access to the Ogden City buildings along the east and south sides of the property. This road follows the easement to a point but then diverges from the easement description. A note is shown on the drawing where the divergence begins. Other lines described as part of the easement are under snow and it is unknown if there are roads in these locations. The pipeline portion of the easement is shown across the southerly most portion of the subject property.
- Schedule B-2, item no. 19 refers to an easement over, across and through the land for electric transmission lines and fiber optic cables and incidental purposes in favor of PacifiCorp and is plotted on the drawing. This easement description appears to be in error since it diverges from the road and south into the Pineview Reservoir on the east side of the property. If the easement was to follow the south and east sides of the existing roadway it would be consistent with the electrical boxes that are visible on the site and are shown on the drawing. Although not known, it appears that underground power lines follow the south and east side of the roadway and connect to the power boxes and service the buildings to the south and east of the property. It is also possible that the easements described in Schedule B-2, item no. 16 and item no. 19 represent the same electrical line that crosses the property.
- Schedule B-2, item no. 20 refers to Weber County Resolution 25-96 regarding Ogden Valley Natural Gas Improvements District. The subject property is within the district.
- Schedule B-2, item no. 21 refers to the effect of a document entitled "Quit Claim Deed" wherein there is some question of the intent to convey Parcel 1 within the deed. The description also contains a note that states, "Disc in error." See the narrative above for my finding on this error.
- Schedule B-2, item no. 22 refers to Weber County Resolution No. 27-2012 refers to tax levy for unincorporated areas of Weber County. The subject property is within the unincorporated area of Weber County.
- The property is located within a Zone "D" according to the FEMA Flood Map, Community Panel no. 49057C.0243E, dated effective December 16, 2005. Zone "D" is defined as Areas in which flood hazards are undetermined, but possible.



LEGEND

SECTION CORNER
MONUMENT
EXIST REBAR AND CAP
SET ENSIGN REBAR AND CAP
WATER METER
WATER MANHOLE
WATER VALVE
FIRE HYDRANT
SECONDARY WATER VALVE
IRRIGATION VALVE
SANITARY SEWER MANHOLE
STORM DRAIN CLEAN OUT
STORM DRAIN CATCH BASIN
STORM DRAIN COMBO BOX
STORM DRAIN CULVERT
SIGN
UTILITY MANHOLE
UTILITY POLE
GAS VALVE
TREE
SHRUB

MINOR CONTOURS 1' INCREMENT
MAJOR CONTOURS 5' INCREMENT
CONCRETE
BUILDING PRIMARY
BUILDING SECONDARY
BUILDABLE AREA WITHIN SETBACKS
PUBLIC DRAINAGE EASEMENT
ADJACENT RIGHT OF WAY
RIGHT OF WAY
CENTERLINE
PROPERTY LINE
ADJACENT PROPERTY LINE
DEED LINE
TANGENT LINE
EXIST DITCH FLOW LINE
EDGE OF ASPHALT
SANITARY SEWER
STORM DRAIN LINE
LAND DRAIN
WATER LINE
SECONDARY WATER LINE
IRRIGATION LINE

NOTES:

- NOT ALL SYMBOLS APPLY TO THIS SURVEY
- THE GROUND WAS COVERED WITH 18" TO 10" OF SNOW. I HAVE SHOWN THOSE ITEMS VISIBLE AT THE TIME OF THE SURVEY. THERE MAY BE OTHER ON THE GROUND ITEMS THAT BECOME VISIBLE WHEN THE SNOW MELTS.
- THE FENCE LINES REPRESENTED HEREON ARE EITHER POSTS WITH NO WIRES OR POSTS WITH WIRE. BOTH CONDITIONS OCCUR AROUND THE PROPERTY.
- DEEDS HAVE BEEN ROTATED FROM "NORTH" IN THE DESCRIPTION TO MATCH THE QUARTER SECTION LINE. THE ROTATION IS 0°25'02"

HORIZONTAL GRAPHIC SCALE
(IN FEET)
HORZ: 1 inch = 100 ft

LOCATED IN THE NORTHWEST QUARTER AND SOUTHWEST QUARTER OF SECTION 11 TOWNSHIP 6 NORTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN EDEN, WEBER COUNTY, UTAH

ALTA/ACSM LAND TITLE SURVEY

PROJECT NUMBER: 12147 DATE: 1/28/14
DRAWN BY: A.SHELBY CHECKED BY: K.RUSSELL
PROJECT MANAGER: K.RUSSELL

1 of 1

ENSGN

LAYTON
1485 West Hillfield Rd.
Suite 204
Layton UT 84041
Phone: 801.547.1100
Fax: 801.593.6315

SALT LAKE CITY
Phone: 801.255.0529

TOOELE
Phone: 435.843.3590

CEDAR CITY
Phone: 435.865.1453

RICHFIELD
Phone: 435.590.0187

WWW.ENSGNUTAH.COM

FOR: KRITON & MCCONKIE
80 EAST SOUTH TEMPLE 1800
SALT LAKE CITY, UTAH 84111

CONTACT: WALLACE O. FELSTED
PHONE:
FAX:

FAULHABER PROPERTY

900 NORTH 5900 EAST
EDEN, WEBER COUNTY, UTAH

PROFESSIONAL LAND SURVEYOR
STATE OF UTAH
No. 164386
KEITH R. RUSSELL