



# Staff Report to the Weber County Commission

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** An ordinance and public hearing to consider and take action on a request to vacate the west side public utility easement within lot 89 of the Elkhorn Subdivision Phase 4.

**Agenda Date:** Tuesday, October 10, 2023

**Applicant:** Phillip (Dan) Green, Owner

**File Number:** VAC 2023-03

### Property Information

**Approximate Address:** 5781 E Elkhorn Drive, Eden, UT, 84310

**Project Area:** .49 acres

**Zoning:** RE-15 (Residential Estates)

**Existing Land Use:** Vacant Residential

**Parcel ID:** 22-171-0010

**Township, Range, Section:** T7N, R1E, Section 26 NW

### 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  
fleverino@webercountyutah.gov  
801-399-8767

**Report Reviewer:** SB

## Background and Summary

The applicant is requesting to vacate the west side public utility easement within lot 89 of the Elkhorn Subdivision Phase 4.

Exhibit B contains the vacation ordinance, which is the instrument that will need to be signed by the County Commission chair that will implement the public utility easement vacation. Weber County Engineering has provided written consent to the public utility easement vacation request with the condition that a new 10' public utility easement is created at the property line. The Weber County Attorney has reviewed the vacating ordinance and created the deed that would create the new 10' public utility easement located at the property line.

The Wolf Creek Water and Sewer District does have a water line within the original roadway (5775 East). The Wolf Creek Water and Sewer District has agreed to relocate the water line to the new 10-foot public utility easement on the westernmost edge of the property boundary.

The Dominion Energy Gas Company does have a gas line within the original roadway (5775 East). They have provided written consent to the public utility easement vacation due to that line being inactive and retired.

Rocky Mountain Power consents to the vacation.

## 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 will not conflict with the Ogden Valley General Plan.

## Staff Recommendation

Staff recommends approval of an ordinance to vacate the public utility easement within lot 89 of the Elkhorn Subdivision Phase 4. 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 is not contrary to the Ogden Valley General Plan.
2. Good cause exists to vacate the public utility easements
3. The public interest or any person will not be materially injured by the proposed vacation.
4. The owner has agreed to deed to the county a new 10' public utility easement at the property line.

## Exhibits

- A. Narrative by the owner
- B. Vacating Ordinance
- C. 10' Public Utility Easement Deed

# Location Map



## Exhibit A – Narrative

This application is to request a vacation of an existing P.U.E. that exists on lot 89 of Elkhorn Subdivision phase 4.

We have contacted the following utilities in regard to this and below is the disposition of each utility:

- Rocky Mountain Power (Electric): Rocky Mountain has signed and will be recording a public utility release for the P.U.E. that the vacation is being requested for. Document will be uploaded separately as part of this application.
- Wolf Creek Sewer and Water: They do not have any utilities in the P.U.E. where the vacation is being requested, however, they do have a secondary water line that runs through the property in the original roadway that was vacated. We have received agreement from them to relocate the water line to a proposed new 10 foot P.U.E. along the new western property line which is down the center of the vacated roadway. The letter from them will be uploaded separately as part of this application.
- Dominion Energy (Gas): Dominion gas does not have any utilities in the P.U.E. where the vacation is being requested, however, they did have gas lines in the original roadway. We have documentation from them confirming that they have vacated the gas lines in the original roadway (5775 East Street) and that they do not need any PUE across the property. That documentation will be uploaded as part of this application.

### Summary:

The only public utility (Rocky Mountain Power) that was actually using the easement for which we are requesting a vacation has completed the paperwork necessary for them to vacate their claim to the easement. While Wolf Creek Sewer and Water did not have utilities in the actual easement, they do have a secondary water line in the original roadway and we have reached the agreement as noted above with them to relocate this water line to the proposed new P.U.E. as described above.

With the relocation of the secondary water line and the vacation of the gas lines by Dominion Energy, the original easement and the former roadway will all be void of any public utilities or the need for them.

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

**AN ORDINANCE OF WEBER COUNTY VACATING THE SIDE PUBLIC UTILITY EASEMENT WITHIN LOT 89 OF THE ELKHORN SUBDIVISION PHASE 4**

**WHEREAS**, the owner has filed a petition to vacate the side public utility easement within lot 89 of the Elkhorn Subdivision Phase 4, 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 October 10, 2023, regarding the vacation 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 vacation; and

**WHEREAS**, the owner has conveyed a new public utility easement to the County, sufficient to replace the public utility easement that is being vacated by this ordinance; and

**WHEREAS**, the Commission finds that good cause exists to vacate the public utility easement, 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: the side public utility easement within lot 89 of the Elkhorn Subdivision Phase 4 is hereby vacated, 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 10th day of October 2023.

Weber County Commission

By \_\_\_\_\_

Gage Froerer, Chair

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

Commissioner Bolos Voted \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk

# Exhibit A

PART OF THE SW.1/4, OF SECTION 23,  
AND PART OF THE NW.1/4, OF SECTION 26, T.7N., R.1E., S.L.B. & M.

## ELKHORN SUBDIVISION PHASE 4

TAXING UNIT: 203

IN WEBER COUNTY  
SCALE 1" = 60'

SEE PAGE 20

SEE PAGE 170

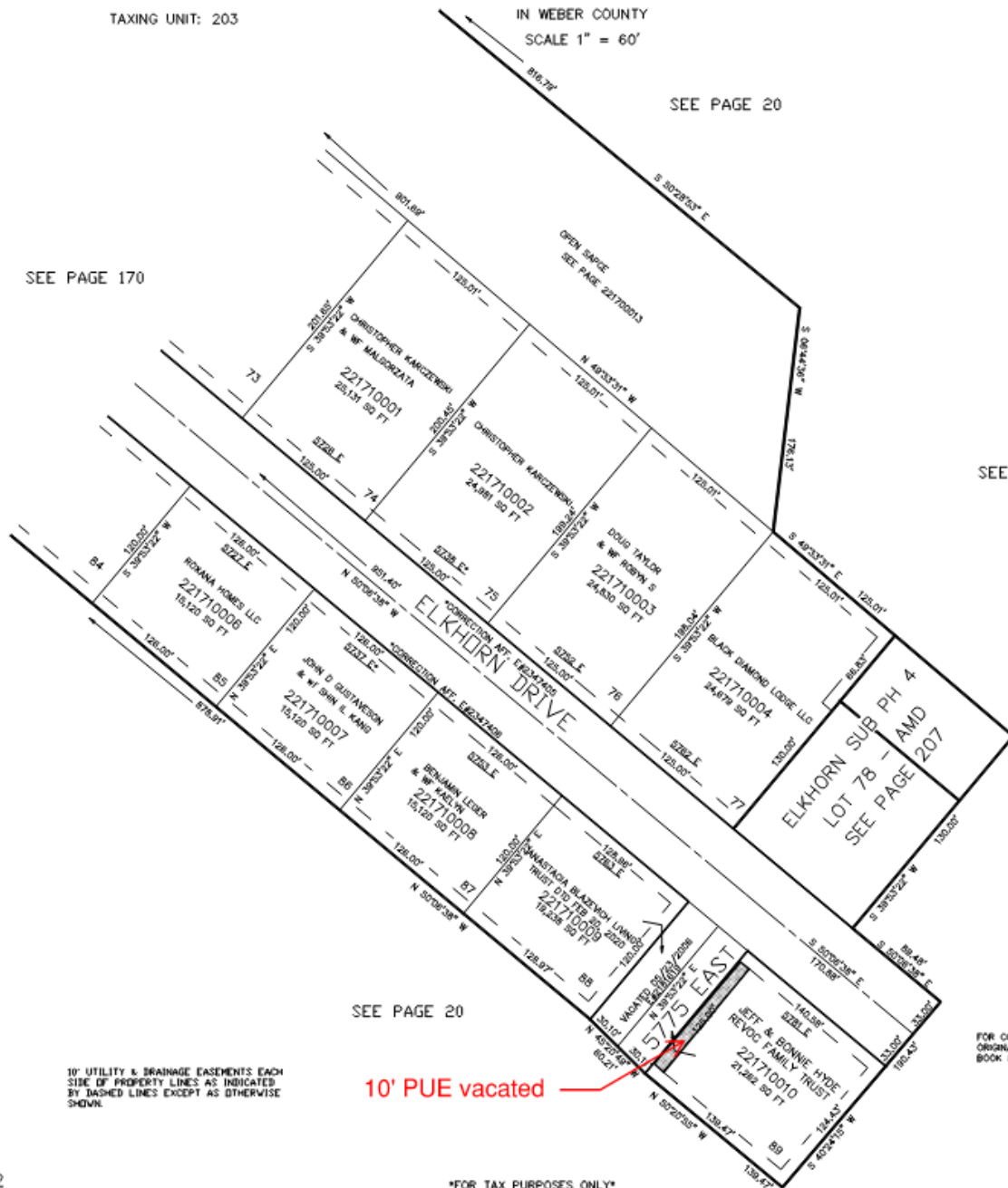
SEE PAGE 20

SEE PAGE 20

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

10' PUE vacated

FOR COMPLETE ENG DATA SEE  
ORIGINAL DEDICATION PLAT IN  
BOOK 51, PAGE 61 OF RECORDS.



**Exhibit C Deed**

When recorded return to:  
Weber County Planning Division  
2380 Washington Blvd., Suite 240  
Ogden, Utah, 84401

Parcel ID No. 22-171-0010

**PUBLIC UTILITY EASEMENT**

Dan Green, hereinafter referred to as "Grantor," of 5781 E Elkhorn Drive does hereby convey to Weber County, a political subdivision of the State of Utah, hereinafter referred to as "Grantee," of 2380 Washington Blvd., Ogden, Utah, 84401, for good and valuable consideration, a public utility easement, as follows:

A perpetual right and easement over, upon, and under the lands described in Exhibit A, attached hereto and by this reference made a part hereof, as a public utility easement, the same to be used for the installation, maintenance, and operation of public utility service lines, with no buildings or structures being erected within such easement.

**EXECUTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

GRANTOR: \_\_\_\_\_

STATE OF UTAH )

: ss.

County of Weber )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, the undersigned Notary Public, [grantor's name] \_\_\_\_\_ and, being by me duly sworn, acknowledged to me that he/she signed the above instrument.

\_\_\_\_\_  
Notary Public  
Residing at:  
My commission expires:

Seal:

ACCEPTANCE BY WEBER COUNTY

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

By: \_\_\_\_\_  
Gage Froerer, Chair

Date: \_\_\_\_\_

ACKNOWLEDGED BEFORE ME:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk/Auditor



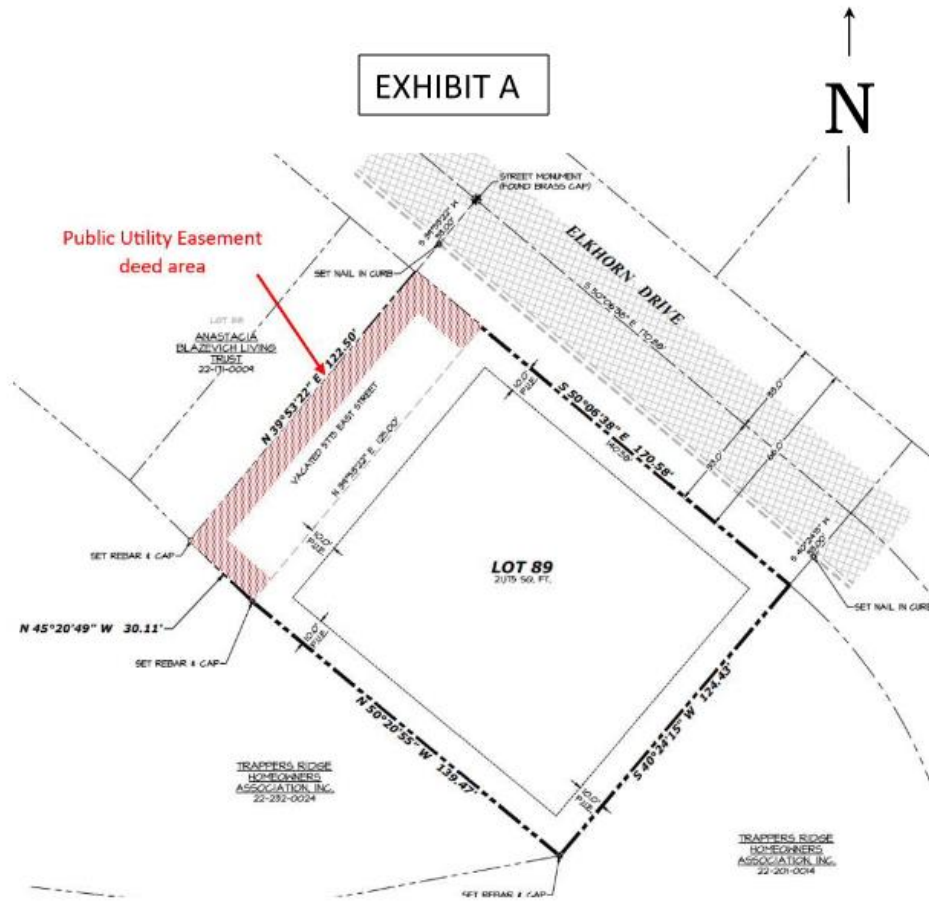
## Exhibit A

Legal Description of new Public Utility Easement (PUE)

A Public Utility Easement (PUE) 10 feet in width along the northerly property line measuring 30.11 feet, more or less, thence along the westerly property line measuring 122.5 feet, more or less, thence along the southerly property line measuring 30.11 feet, more or less, within the real property more particularly described as follows and/or shown on Exhibit "A" attached and by this reference made part hereof:

Legal Description:

The easterly half of 5775 East Street, abutting Lot 89 on the West as vacated by Weber County ordinance No. 2006-13 (E#2181619).



Parcel Number: 221710010	Full Legal Description of parcel:
	ALL OF LOT 89, ELKHORN SUBDIVISION PHASE 4, WEBER COUNTY, UTAH. TOGETHER WITH THE EASTERLY HALF OF 5775 EAST STREET, ABUTTING LOT 89 ON THE WEST AS VACATED BY WEBER COUNTY ORDINANCE NO. 2006-13 (E#2181619).
SCALE: NOT TO SCALE	This drawing should be used only as a representation of the location of the easement being conveyed.