

WEBER COUNTY PLANNING DIVISION

Administrative Review Meeting Agenda

**September 29, 2021
3:30 to 4:30 p.m.**

1. Minutes: 9/22/2021

2. Administrative Items

2.1 UVS072221: Final approval of the Shannon Bee Estates Subdivision 1st Amendment consisting of a lot line amendment between two existing lots at approximately 3799 Nordic Valley Dr. in Eden. Applicant: Don White, Staff Presenter: Scott Perkes

2.2 UVM071120: Reconsideration for final approval of the Middle Fork Ranches 3rd Amendment consisting of one lot at 7522 East 1400 North in Huntsville. Applicant: Troy Green, Staff Presenter: Scott Perkes

2.3 LVM052021: Final approval of the Miller's Flats Subdivision consisting of one lot at approximately 1831 North 6700 West in Ogden. Applicant: Gilbert Miller, Staff Presenter: Scott Perkes

The meeting will be held in Public Works Conference Room, in the Weber Center, 2nd Floor Suite 240, 2380 Washington Blvd, Ogden Utah 84401

Public comment may NOT be heard during Administrative items, the Planning Division Project Manager may be reached at 801-399-8374 before the meeting if you have questions or comments regarding an item.

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8374



Minutes of September 22, 2021, Administrative Review Hearing, held in the Weber County Planning Division Office, 2380 Washington Blvd., Suite 240, Ogden UT and via Zoom Video Conferencing, commencing at 4:00 p.m.

Staff Present: Steve Burton, Principle Planner; Felix Lleverino, Planner II; June Nelson, Secretary

1. Minutes approved from 9/1/2021

2. AAE2021-10 Consideration and action on an alternative access request to use a private right-of-way as the primary access for two lots within a four-lot subdivision.

Staff Presenter Felix Lleverino, Applicant Scott Hale

Planner Felix Lleverino states: The applicant is requesting approval of a private access easement for two lots in a future four-lot subdivision. The narrative in Exhibit A describes how the alternative access is applicable in this situation. The qualifying criteria posed by the applicant is listed below:

1. The property boundary conditions make it impractical to extend a street to serve this one lot.
2. There does not appear to be a path for a new connection to North Fork Road due to the presence of established residential lots.

Alternative Access Approval for file number AAR 2021-02 was granted in a public meeting held on April 7th, 2021. Following approval it was discovered that the Weber Morgan Health Department required that the lots be reconfigured to accommodate for the placement of wells and septic systems. A development re-design now requires an alternative access for two lots.

Design of the development is hinging on the proposal due to Health Department Requirements. Typically we would want a public road, but the owner needs to display a need for alternate access.

No Public Comment

Principal Planner Steve Burton TABLED with the following comment: They want to wave requirements for public road. I would like to table the item. I feel like there should be public road access. It is both practical and feasible to put in a road.

Adjourn

**Respectfully Submitted,
June Nelson
Lead Office Specialist**



Staff Report for Administrative Subdivision Approval

Weber County Planning Division

Synopsis

Application Information

Application Request:	Consideration and action on an administrative application for final plat approval Shannon Bee Estates 1st Amendment comprising of a lot line adjustment between two existing subdivided lots of record.
Type of Decision	Administrative
Agenda Date:	Wednesday, September 29, 2021
Applicant:	Don White & Tony Rocco (Owners)
File Number:	UVS072221

Property Information

Approximate Address:	3799 Nordic Valley Dr., Eden, Utah 84310
Project Area:	2.453 Acres
Zoning:	Forest Valley (FV-3) Zone
Existing Land Use:	Residential/Vacant
Proposed Land Use:	Residential
Parcel ID:	22-088-0012, 22-088-0011
Township, Range, Section:	T7N, R1E, SE Quarter of Section 29

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Residential

Staff Information

Report Presenter:	Scott Perkes sperkes@co.weber.ut.us 801-399-8772
Report Reviewer:	RG

Applicable Ordinances

- Title 104 (Zones) Chapter 14 (FV-3 Zone)
- Title 106 (Subdivisions)
- Title 101 (General Provisions) Section 7 (Definitions)
- Title 108 (Standards) Section 12 (Noncomplying Structures, Nonconforming Uses, And Nonconforming Lots)

Background and Summary

The owners of the two lots associated with this application (see **Exhibit A**) wish to perform a boundary line adjustment to reconfigure their shared side property line in a way that would leave both lots with unadjusted areas but improved street frontages with Nordic Valley Drive.

Both lots (#7 & 8) were considered to be legally non-conforming "Lots of Record" as they were created by the 1983 Shannon Bee Estates Subdivision (see **Exhibit B**), but do not meet the current FV-3 zoning minimum area of 3 acres. Per LUC Sec.

The owners previously exchanged quit claim deeds to effectuate the desired lot line adjustment. However this action unintentionally created two illegal lots because such a change is required to go through the subdivision amendment process (rather than quit claim deeds) in order to preserve the legal nonconforming status of the lots. This requirement is found in LUC Sec. 108-12-11(b) which reads as follows:

(b) Any lot legally platted within the bounds of a subdivision that was created pursuant to the standards of the zoning code and subdivision code in effect at the time of its creation, but no longer complies due to subsequent changes to these codes, may be amended pursuant to the minimum standards in effect at the time of its creation. The amendment shall not create any new lots. An amended plat shall be required.

Analysis

General Plan: This lot line adjustment between two lots of record is in harmony with the Ogden Valley General Plan by implementing creative designs that preserve natural, agricultural and open spaces within the valley.

Lot Line Adjustment:

County's definition of a "Lot Line Adjustment" is as follows:

"The term "lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record. An amended plat is required to do a lot line adjustment."

Zoning: The property is located in the FV-3 Zone. The purpose of this zone is stated in the LUC §104-14-1

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

While both of these lots are nonconforming to the current FV-3 site development standards, LUC Sec. 12-11(b), as provided in the section above, allows for amendments to be made pursuant to the minimum standards in effect at the time of its creation as long as the amendment does not create any new lots. The zoning that was applicable to this area when originally created in 1983 was Forest Residential (FR-1). FR-1 zoning required a minimum lot width of 150 feet and a minimum area of 1 acre. The amended lots, as proposed, exceed both these minimum standards.

Small Subdivision: The Weber County Land Use Code (§101-1-7) defines "small subdivision" as "A subdivision consisting of five (5) or fewer lots and for which no streets will be created or realigned." This subdivision consists of two existing lots and no new streets are being created or realigned. Based on these requirements, this subdivision qualifies for administrative approval as a small subdivision.

Culinary Water, Secondary Water, and Sewer Services: Eden Water Works and Eden Irrigation Co. have provided connections and service to the two exiting lots. This service will continue following the plat amendment. Waste water is served by on-site waste water treatment systems.

Review Agencies: With exception to the Weber-Morgan Health Department, the proposed subdivision has been reviewed by all County Reviewing agencies. Various agencies have remaining review comments that will need to be addressed prior to recording of the final plat mylar.

Staff recommends that a formal review of the proposed subdivision will need to be conducted by the Weber-Morgan Health Department to verify that the proposed lot line adjustment does not result in the encroachment of existing septic system components on adjacent property.

Clearance: There is no record of past delinquent tax history and no outstanding tax bills on these parcels.

Staff Recommendations

Staff recommends final plat approval of the Shannon Bee Estates Subdivision 1st Amendment consisting of two lots. This recommendation is subject to all applicable review agency requirements and is based on the following condition:

1. A formal review of the proposed subdivision will need to be conducted by the Weber-Morgan Health Department to verify that the proposed lot line adjustment does not result in the encroachment of existing septic system components on adjacent property.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision complies with the applicable County ordinances.

Administrative Approval

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

Date of Administrative Approval: _____

Rick Grover
Weber County Planning Director

Exhibits

- A. Shannon Bee Estates Subdivision 1st Amendment Plat
- B. Original Shannon Bee Estates Subdivision Plat (1983)

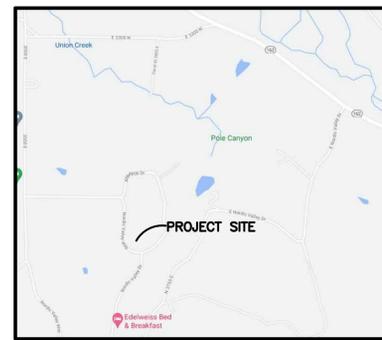
Area Map



SHANNON BEE ESTATES 1ST AMENDMENT

AMENDING LOTS 7 AND 8 OF SHANNON BEE ESTATES
PART OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY
WEBER COUNTY, UTAH
SEPTEMBER, 2021

Exhibit A



VICINITY MAP
NOT TO SCALE

CURVE TABLE

#	RADIUS	ARC LENGTH	CHD LENGTH	TANGENT	CHD BEARING	DELTA
C1	340.96'	50.46'	50.42'	25.28'	S71°16'41"W	8°28'47"
C2	292.00'	282.59'	271.69'	153.46'	N76°45'36"W	55°26'56"
C3	143.89'	127.53'	123.39'	68.29'	N23°38'57"W	50°46'49"
C4	292.00'	243.88'	236.86'	129.56'	N80°33'26"W	47°51'16"
C5	292.00'	38.70'	38.68'	19.38'	N52°49'58"W	7°35'40"
C6	50.00'	32.65'	32.08'	16.93'	N44°33'39"E	37°25'07"
C7	176.89'	156.77'	151.69'	83.95'	S23°38'56"E	50°46'49"
C8	325.00'	314.52'	302.39'	170.80'	S76°45'36"E	55°26'56"
C9	373.96'	139.20'	138.40'	70.41'	N64°51'15"E	21°19'38"
C10	209.88'	186.02'	179.99'	99.62'	N23°38'55"W	50°46'49"
C11	358.00'	346.46'	333.09'	188.15'	N76°45'36"E	55°26'56"
C12	406.96'	150.91'	150.04'	76.33'	N64°53'42"E	21°14'45"

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS PLAT IS THE SECTION LINE BETWEEN THE SOUTHEAST CORNER AND THE SOUTH QUARTER CORNER OF SECTION 29, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SHOWN HEREON AS: N89°15'05"W

NARRATIVE

THE PURPOSE OF THIS PLAT IS TO AMEND LOT 7 AND 8 OF SHANNON BEE ESTATES AS SHOWN. THE BOUNDARY WAS DETERMINED USING A BEST FIT SOLUTION OF LOCAL FOUND PROPERTY MARKERS AS WELL AS EXISTING IMPROVEMENTS. THE BEARINGS FOR THE SUBDIVISION WERE LEFT AS REPRESENTED ON THE RECORDED PLAT OF SHANNON BEE ESTATES AND THE SECTION CORNERS WERE MEASURED FROM THAT BEARING BASE. ALL BOUNDARY AND LOT CORNERS TO BE SET WITH A 5/8" X 24" REBAR AND RED PLASTIC CAP STAMPED "REEVE & ASSOCIATES".

BOUNDARY DESCRIPTION

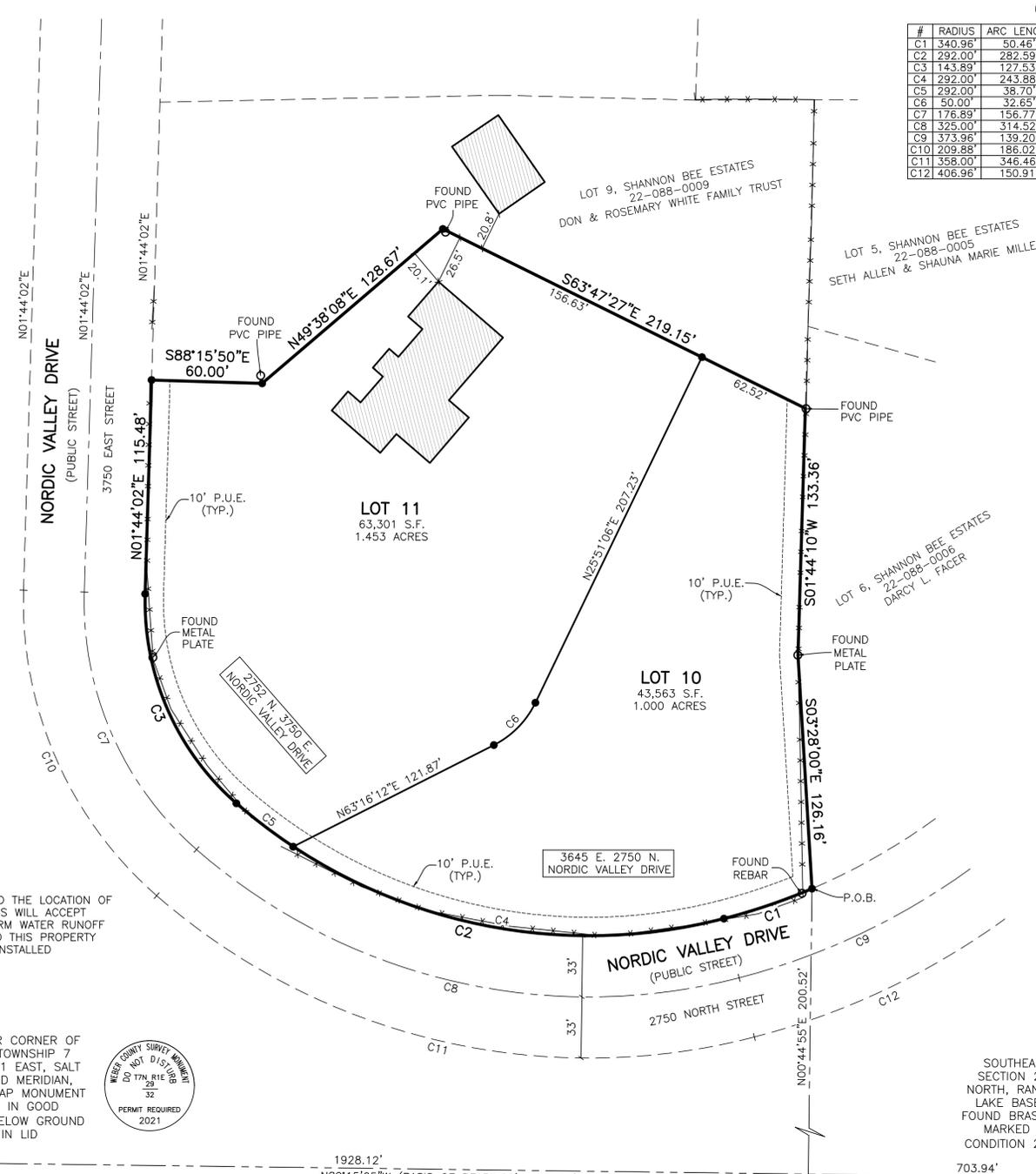
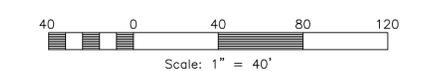
ALL OF LOTS 7 AND 8 OF SHANNON BEE ESTATES ACCORDING TO THE OFFICIAL PLAT THEREOF ON RECORD IN THE OFFICE OF THE WEBER COUNTY RECORDER BEING LOCATED IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF NORDIC VALLEY DRIVE, SAID POINT BEING N89°15'05"W 703.94 FEET AND N00°44'55"E 200.52 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 29; THENCE ALONG THE NORTHERLY RIGHT OF WAY LINE OF NORDIC VALLEY ROAD THE FOLLOWING FOUR (4) COURSES: (1) ALONG A NON-TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 340.96 FEET, AN ARC LENGTH OF 50.46 FEET, A DELTA ANGLE OF 08°28'47", A CHORD BEARING OF S71°16'41"W, AND A CHORD LENGTH OF 50.42 FEET; (2) ALONG A COMPOUND CURVE TURNING TO THE RIGHT WITH A RADIUS OF 292.00 FEET, AN ARC LENGTH OF 282.59 FEET, A DELTA ANGLE OF 55°26'56", A CHORD BEARING OF N76°45'36"W, AND A CHORD LENGTH OF 271.69 FEET; (3) ALONG A COMPOUND CURVE TURNING TO THE RIGHT WITH A RADIUS OF 143.89 FEET, AN ARC LENGTH OF 127.53 FEET, A DELTA ANGLE OF 50°46'49", A CHORD BEARING OF N23°38'57"W, AND A CHORD LENGTH OF 123.39 FEET; AND (4) N01°44'02"E 115.48 FEET TO THE SOUTHERLY LINE OF LOT 9 OF SHANNON BEE ESTATES; THENCE ALONG SAID SOUTHERLY LINE THE FOLLOWING THREE (3) COURSES: (1) S88°15'50"E 60.00 FEET; (2) N49°38'08"E 128.67 FEET; AND (3) S63°47'27"E 219.15 FEET TO THE WESTERLY LINE OF LOT 6 OF SHANNON BEE ESTATES; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING TWO (2) COURSES: (1) S01°44'10"W 133.36 FEET; AND (2) S03°28'00"E 126.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 106,864 SQUARE FEET OR 2.453 ACRES MORE OR LESS.

LEGEND

- = SECTION CORNER
- = 5/8" X 24" REBAR AND RED PLASTIC CAP TO BE SET STAMPED "REEVE & ASSOCIATES"
- = FOUND AS NOTED
- = BOUNDARY LINE
- - - = LOT LINE
- - - = ADJOINING PROPERTY
- - - = EASEMENTS
- - - = SECTION TIE LINE
- x - x - x = EXISTING FENCELINE
- - - = ROAD CENTERLINE
- ▨ = EXISTING STRUCTURE



NOTE

DUE TO THE TOPOGRAPHY AND THE LOCATION OF THIS SUBDIVISION, ALL OWNERS WILL ACCEPT RESPONSIBILITY FOR ANY STORM WATER RUNOFF FROM THE ROAD ADJACENT TO THIS PROPERTY UNTIL CURB AND GUTTER IS INSTALLED

SOUTH QUARTER CORNER OF SECTION 29, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, FOUND BRASS CAP MONUMENT DATED 2021 IN GOOD CONDITION 6" BELOW GROUND IN RING IN LID



SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, FOUND BRASS CAP MONUMENT MARKED 1987 IN GOOD CONDITION 2" ABOVE GROUND

DEVELOPER:

Don White
1200 Thrushwood Drive
Logan, UT 84321

WEBER COUNTY PLANNING COMMISSION APPROVAL

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED BY THE WEBER COUNTY PLANNING COMMISSION. SIGNED THIS _____ DAY OF _____, 20____.

CHAIRMAN, WEBER COUNTY PLANNING COMMISSION

WEBER COUNTY ENGINEER

I HEREBY CERTIFY THAT THE REQUIRED PUBLIC IMPROVEMENT STANDARDS AND DRAWINGS FOR THIS SUBDIVISION CONFORM WITH THE COUNTY STANDARDS AND THE AMOUNT OF THE FINANCIAL GUARANTEE IS SUFFICIENT FOR THE INSTALLATION OF THESE IMPROVEMENTS.

WEBER COUNTY ENGINEER

WEBER COUNTY COMMISSION ACCEPTANCE

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT, THE DEDICATION OF STREETS AND OTHER PUBLIC WAYS AND FINANCIAL GUARANTEE OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION, THEREON ARE HEREBY APPROVED AND ACCEPTED BY THE COMMISSIONERS OF WEBER COUNTY, UTAH. SIGNED THIS _____ DAY OF _____, 20____.

CHAIRMAN, WEBER COUNTY COMMISSION

ATTEST TITLE

WEBER COUNTY SURVEYOR

I HEREBY CERTIFY THAT THE WEBER COUNTY SURVEYOR'S OFFICE HAS REVIEWED THIS PLAT AND ALL CONDITIONS FOR APPROVAL BY THIS OFFICE HAVE BEEN SATISFIED. THE APPROVAL OF THIS PLAT BY THE WEBER COUNTY SURVEYOR DOES NOT RELIEVE THE LICENSED LAND SURVEYOR WHO EXECUTED THIS PLAT FROM THE RESPONSIBILITIES AND/OR LIABILITIES ASSOCIATED THEREWITH. SIGNED THIS _____ DAY OF _____, 20____.

WEBER COUNTY SURVEYOR
RECORD OF SURVEY # _____

WEBER COUNTY ATTORNEY

I HAVE EXAMINED THE FINANCIAL GUARANTEE AND OTHER DOCUMENTS ASSOCIATED WITH THIS SUBDIVISION PLAT, AND IN MY OPINION THEY CONFORM WITH THE COUNTY ORDINANCE APPLICABLE THERETO AND NOW IN FORCE AND EFFECT. SIGNED THIS _____ DAY OF _____, 20____.

WEBER COUNTY ATTORNEY

WEBER-MORGAN HEALTH DEPARTMENT

I HEREBY CERTIFY THAT THE SOILS, PERCOLATION RATES, AND SITE CONDITIONS FOR THIS SUBDIVISION HAVE BEEN INVESTIGATED BY THIS OFFICE AND ARE APPROVED FOR ON-SITE WASTEWATER DISPOSAL SYSTEMS. SIGNED THIS _____ DAY OF _____, 20____.

DIRECTOR, WEBER-MORGAN HEALTH DEPARTMENT

SURVEYOR'S CERTIFICATE

I, **TREVOR J. HATCH**, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS ACT; AND THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THIS PLAT, AND THAT THIS PLAT OF **SHANNON BEE ESTATES 1ST AMENDMENT** IN **WEBER COUNTY, UTAH**, HAS BEEN DRAWN CORRECTLY TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE HEREBY DESCRIBED LANDS INCLUDED IN SAID SUBDIVISION, BASED UPON DATA COMPILED FROM RECORDS IN THE **WEBER COUNTY** RECORDER'S OFFICE AND FROM SAID SURVEY MADE BY ME ON THE GROUND. I FURTHER CERTIFY THAT THE REQUIREMENTS OF ALL APPLICABLE STATUTES AND ORDINANCES OF **WEBER COUNTY**, CONCERNING ZONING REQUIREMENTS REGARDING LOT MEASUREMENTS HAVE BEEN COMPLIED WITH.

SIGNED THIS _____ DAY OF _____, 20____.

9031945
UTAH LICENSE NUMBER



OWNERS DEDICATION AND CERTIFICATION

WE THE UNDERSIGNED OWNERS OF THE HEREBY DESCRIBED TRACT OF LAND, DO HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND STREETS AS SHOWN ON THE PLAT AND NAME SAID TRACT **SHANNON BEE ESTATES 1ST AMENDMENT**, AND DO HEREBY GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED HEREON AS PUBLIC UTILITY EASEMENTS, THE SAME TO BE USED FOR THE INSTALLATION MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINE, STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR FOR THE PERPETUAL PRESERVATION OF WATER CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY BE AUTHORIZED BY THE GOVERNING AUTHORITY, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS.

SIGNED THIS _____ DAY OF _____, 20____.

DON & ROSEMARY WHITE FAMILY TRUST
BY: DON WHITE, TRUSTEE

TONY ROCCO HEPP
ANGELA HEPP

ACKNOWLEDGMENT

STATE OF UTAH)ss.
COUNTY OF _____)
ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, _____ (AND) _____ SIGNER(S) OF THE ABOVE OWNER'S DEDICATION AND CERTIFICATION, WHO BEING BY ME DULY SWORN, DID ACKNOWLEDGE TO ME _____ SIGNED IT FREELY, VOLUNTARILY, AND FOR THE PURPOSES THEREIN MENTIONED.

COMMISSION EXPIRES _____ NOTARY PUBLIC

ACKNOWLEDGMENT

STATE OF UTAH)ss.
COUNTY OF _____)
ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, _____ (AND) _____ BEING BY ME DULY SWORN, ACKNOWLEDGED TO ME THEY ARE _____ AND _____ OF SAID CORPORATION AND THAT THEY SIGNED THE ABOVE OWNER'S DEDICATION AND CERTIFICATION FREELY, VOLUNTARILY, AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSES THEREIN MENTIONED.

COMMISSION EXPIRES _____ NOTARY PUBLIC

Project Info.

Surveyor: T. HATCH
Designer: N. ANDERSON
Begin Date: 7-2-2021
Name: SHANNON BEE ESTATES 1ST AMENDMENT
Number: 7465-01
Revision: 9-7-21 E.R.
Scale: 1"=40'
Checked: _____

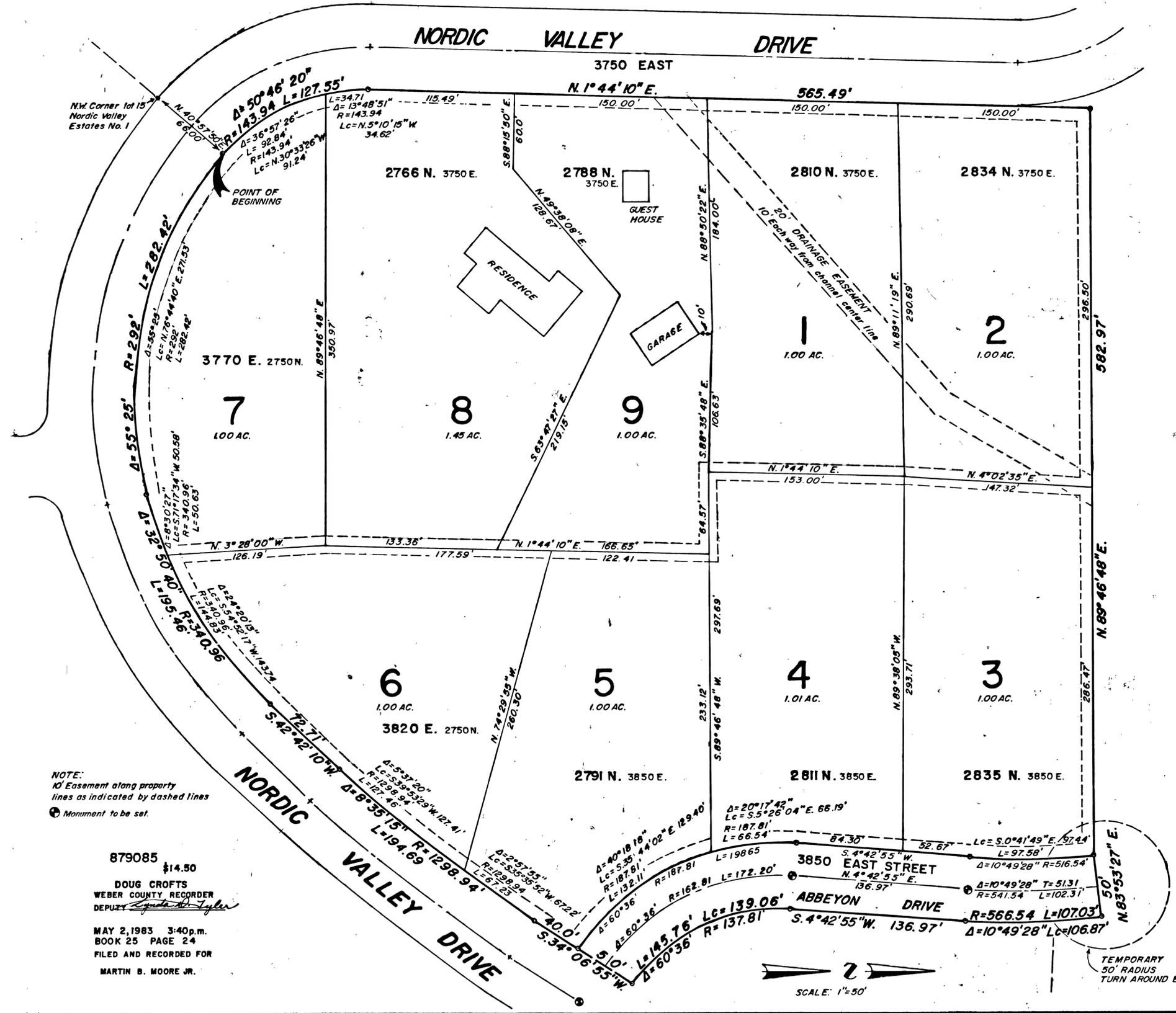


Weber County Recorder

Entry No. _____ Fee Paid _____
And Recorded, _____
At _____ in Book _____
Of The Official Records, Page _____
Recorded For: _____
Weber County Recorder
Deputy: _____

SHANNON BEE ESTATES

PART OF S.E. 1/4 SECTION 29 T-7-N, R-1-E, S.L.B.&M.



PROPERTY DESCRIPTION

Being a part of the S.E. 1/4 of Section 29, T-7-N, R-1-E, S.L.B.&M. U.S. Survey. Beginning at a point which is N. 40° 57' 50" E., 66.0 feet from the N.W. corner of lot no. 15, Nordic Valley Estates no. 1, Weber County, Utah: Running Thence Northwestly along the arc of a curve to the right 127.55 feet (R=143.94 feet, Ch bears N. 23° 39' W. 123.42 feet) Thence N. 1° 44' 10" E., 565.49'. Thence N. 89° 46' 48" E., 582.97 ft. Thence N. 83° 53' 27" E., 50.0 feet. Thence in a Southeastly direction along the arc of a curve to the right, 107.03 feet (R=566.54 feet, Ch bears S. 0° 41' 49" E., 106.87 feet) Thence S. 4° 42' 55" W., 136.97 feet. Thence Southeastly along the arc of a curve to the left, 145.76 feet (R=137.81, Lc bears S. 25° 35' 05" E., 139.06 feet.) Thence S. 34° 06' 55" W., 90 feet; Thence in a Southwesterly direction along the arc of a curve to the right, 194.69 feet. (R=1298.94 feet Lc bears S. 38° 24' 32" W., 194.50 feet.) Thence S. 42° 42' 10" W., 72.71 feet; Thence Southwesterly along the arc of a curve to the right, 195.46 feet (R=340.96, Lc bears S. 59° 07' 30" W., 192.79 feet.) Thence Northwestly along the arc of a curve to the right, 282.42 feet. (R=292.00, Lc bears N. 76° 44' 40" W., 271.53 feet) to the point of beginning.
Contains 9.93 Acres

SURVEYORS CERTIFICATE

I, Martin B. Moore Jr. Licensed Land Surveyor No. 3964, do hereby certify that this plat of Shannon Bee Estates, Weber County, Utah, correctly represents the above described property, based upon records of Weber County, Utah, and actual ground survey.
Signed this 11 day of February 1983.

1983
Lic. No. 3964 Martin B. Moore Jr.
Signature

OWNERS DEDICATION

I, the undersigned owner of the hereon described tract of land set apart and subdivide the same into lots as shown on this plat, and name the subdivision Shannon Bee Estates, and hereby dedicate, grant, and convey to Weber County Utah those certain strips as easements for public utility and drainage purposes as shown hereon.
Signed this 12 day of April 1983.

Betty Jean Hensley
Betty J. Hensley

ACKNOWLEDGEMENT

On the 12 day of April 1983 personally appeared before me, the undersigned Notary Public, Betty Hensley, who duly acknowledged to me that she signed the above for purposes and considerations therein expressed.
April 3, 1986
Commission expires

Graham F. Shina
Notary Public

I, the undersigned owner of that portion of the above described property designated as ABBEYON DRIVE, a 50 foot street thoroughfare, do hereby dedicate the same to Weber County, Utah for a public thoroughfare forever.
Signed this 28 day of April 1983.

William G. Ganswich (AS TRUSTEES) Cleo M. Ganswich
Cleo M. Ganswich

On the 28 day of April 1983 personally appeared before me, the undersigned Notary Public, William G. Ganswich and Cleo M. Ganswich who acknowledged to me that they signed the above for the purposes and considerations therein expressed.
April 3, 1986
Commission expires

Graham F. Shina
Notary Public

WEBER COUNTY ENGINEER APPROVAL

Approved by the Weber County Engineers office this 11 day of April 1983, for compliance with county regulations.

Robert A. Hunter
County Engineer

WEBER COUNTY PLANNING COMMISSION

Approved by the Weber County Planning Commission this 8th day of March 1983.

Robert A. Hunter
Chairman

WEBER COUNTY COMMISSION

Approved by the Weber County Commission this 11th day of April 1983.

Robert A. Hunter
Chairman

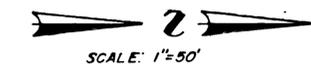
WEBER COUNTY RECORDER

State of Utah ss
County of Weber This is to certify that this plat was filed for record in the county recorders office on the ___ day of ___, 1983.

File Number _____ County Recorder _____

NOTE:
10' Easement along property lines as indicated by dashed lines
Monument to be set.

879085 \$14.50
DOUG CROFTS
WEBER COUNTY RECORDER
DEPUTY Lynda M. Tyler
MAY 2, 1983 3:40 p.m.
BOOK 25 PAGE 24
FILED AND RECORDED FOR
MARTIN B. MOORE JR.



TEMPORARY
50' RADIUS
TURN AROUND ESMT.



Staff Report for Administrative Approval

Weber County Planning Division

Synopsis

Application Information

Application Request:	Consideration and action for final plat approval of the Miller's Flats Subdivision, a 1-lot subdivision at approximately 1831 N 6700 W, Ogden
Type of Decision:	Administrative
Agenda Date:	Wednesday, September 29, 2021
Applicant:	Gilbert Miller (Owner), Jim Miller (Representative)
File Number:	LVM052021

Property Information

Approximate Address:	1831 N 6700 W, Ogden
Project Area:	2 acres
Zoning:	Agricultural (A-2)
Existing Land Use:	Vacant/Agriculture
Proposed Land Use:	Residential
Parcel ID:	10-029-0001
Township, Range, Section:	T6N, R3W, Section 2, NE 1/4

Adjacent Land Use

North:	Residential	South:	Residential
East:	Agriculture	West:	Vacant

Staff Information

Report Presenter:	Scott Perkes sperkes@co.weber.ut.us 801-399-8772
Report Reviewer:	RG

Applicable Ordinances

- Title 104, Chapter 7 - Agricultural (A-2)
- Title 106 - Subdivisions
- Title 108, Chapter 7, Section 19 – Building on Dedicated Substandard Streets or Public by Right of Use Roads

Background and Summary

The applicant is requesting final administrative approval of a one lot subdivision known as Miller's Flats Subdivision located at approximately 1831 N 6700 W, Ogden (see **Exhibit A**). The Uniform Land Use Code of Weber County (LUC) §101-2-20 indicates that a "Small Subdivision" can be administratively approved by the Planning Director as long as the subdivision consists of three or fewer lots and for which no streets will be created or realigned.

The proposed subdivision is conformance with the current zoning and the applicable subdivision requirements as required in the LUC. Staff analysis of the proposed subdivision is provided below.

Analysis

General Plan: The proposal conforms to the Western Weber General Plan by creating lots for the continuation of rural single family residential development in the area (2003 West Central Weber County General Plan, Residential Uses, Page 1-4).

Zoning: The subject property is located in the Agricultural (A-2) Zone. Single-family dwellings are a permitted use in the A-2 Zone.

Lot area, frontage/width and yard regulations: In the LUC §104-7-6 the A-2 zone requires a minimum lot area of 40,000 square feet for a single family dwelling and a minimum lot width of 150'. The proposed lot within the subdivision meets the zoning requirements for both area (2 acres) and width (167 feet).

Access: The proposed lot will gain access across the front lot line from the existing 6700 West street. This street's right-of-way is currently 66 feet wide, but is planned to be 100-feet wide. The road is also unpaved beginning at the intersection of 1900 North and 6700 West and extending southward along the full frontage of the proposed lot. As such, the road is currently considered substandard in both right-of-way width and surface improvements. However, the road is not considered to be terminal as it does connect further south to 700 North and to the north at the intersection of 1900 North. Per LUC Sec. 108-7-19 (Building on Dedicated Substandard Streets of Public by Right of Use Roads):

- (a) An applicant for a land use and building permit for property which abuts and has access from a substandard dedicated street or public by right of use road, shall, as a condition of issuance of such permits, be required:
 - (1) To sign a substandard road agreement provided by the county.
 - (2) To dedicate, if the road is substandard in width, sufficient road right-of-way widening to meet county road standards or as recommended by the county engineer in situations that warrant an alternative width such as unusual topographic or boundary conditions.

The proposed plat dedicates a 17-foot deep, by 167-foot long piece of land for the widening of 6700 West right-of-way to a full 50-foot half width on the west side of the centerline. This dedication brings the portion of 6700 West right-of-way along the lot's frontage up to width standard and satisfies condition number two as listed in LUC Sec. 108-7-19(a)(2).

As a condition of subdivision approval, the applicant will need to sign a substandard road agreement, as provided by the county, to satisfy condition number one as listed in LUC Sec. 108-7-19(a)(1).

Culinary water: Culinary water will be provided by West Warren-Warren Water Improvement District (see **Exhibit B**).

As a condition of subdivision approval, the applicant will need to provide an unconditional final approval letter from West Warren-Warren Water Improvement District prior to the final mylar being recorded.

Secondary water: Per the West Warren-Warren Water Improvement District (WWWWID) Will-Serve Letter, pressurized secondary water is only required should a second lot be subdivided in the future.

Although pressurized secondary water isn't currently available and WWWID water is allowed to be used for secondary purposes, the applicant has indicated that an on-site retention pond is filled by an existing well on the parent parcel. The applicant has generated a signed letter/certificate granting Jim Miller (future owner of the subdivided lot, and brother to the applicant) two hours per week of transferable pumping rights from the detention pond to be used as an additional secondary water source for the new lot (see **Exhibit C**).

Sanitary sewage disposal: Sanitary sewage disposal will be handled by an on-site waste water treatment system. A septic feasibility letter has been provided by Weber Morgan Health Department (see **Exhibit D**).

Public Wellhead Protection Zones: The proposed subdivision is not located within any mapped public wellhead protection zones.

Review Agencies: The Weber County Engineering Division, the Weber County Surveyor's Office and Weber Fire District, Weber-Morgan Health, and Addressing have reviewed the proposal. Prior to the subdivision being released for Mylar, all remaining review agencies comments will need to be addressed.

Staff Recommendation

Staff recommends final approval of Miller's Flats Subdivision (LVM052021). This recommendation for approval is subject to all applicable review agency requirements and is based on the following conditions:

1. The applicant will need to sign a substandard road agreement, as provided by the county.
2. A deferral agreement for curb, gutter, sidewalk, and asphalt will be required prior to recording the subdivision plat.
3. An Onsite Wastewater Disposal Systems Deed Covenant and Restriction will be recorded simultaneously with the final plat.

The recommendation for approval is based on the following findings:

1. The proposed subdivision amendment conforms to the West Central Weber General Plan.
2. With the recommended conditions, the proposed subdivision amendment complies with the Weber County Land Use Code.

Administrative Approval

Administrative final approval of Miller's Flats Subdivision (LVM052021) is hereby granted based upon its compliance with the Weber County Land Use Code. This approval is subject to the requirements of applicable review agencies and the conditions of approval listed in this staff report.

Date of Administrative Approval: _____

Rick Grover
Weber County Planning Director

Exhibits

- A. Miller's Flats Final Subdivision Plat
- B. West Warren-Warren Water Improvement District Will-Serve Letter
- C. Secondary Water Pumping Rights Letter
- D. Weber-Morgan Health Department Septic Feasibility Letter

Location Map



MILLER'S FLATS SUBDIVISION
WEST WARREN, WEBER COUNTY, UTAH
 LYING AND SITUATE IN THE NORTHEAST QUARTER OF SECTION 2,
 TOWNSHIP 6 NORTH, RANGE 3 WEST, SALT LAKE BASE AND MERIDIAN
 SURVEY PERFORMED: FEBRUARY 2021

SURVEYORS CERTIFICATE

I, David E. Hawkes, certify that I am a Professional Land Surveyor holding license number 356548 in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act and that a survey of the described tract of land has been completed by me in accordance with Section 17-23-17 and that I have verified all measurements, have placed monuments as shown hereon.

NARRATIVE

See Record of Survey #6766, filed with the Weber County Surveyor.

BOUNDARY DESCRIPTION

A parcel of land lying and situate in the Northeast Quarter of Section 2, Township 6 North, Range 3 West, Salt Lake Base and Meridian. Comprising 2.00 acre of that particular parcel of land described in that certain Warranty Deed recorded as Entry 1263246, in Book 1694, at Page 308, of the Weber County Records. Basis of bearing for subject parcel being NORTH as determined by GPS or "South 89°34'56" West 2662.63 feet, measured, between the Weber County brass cap monuments monumenting the north line of said Northeast Quarter Section. Subject Parcel being more particularly as follows:
 Commencing at the Northeast Corner of Said Section 2, thence South 89°34'56" West 33.00 feet coincident with the north line of said Section 2, to a point on the west right of way line of 6700 West Street; thence South 00°21'24" West 33.00 feet coincident with said right of way line to a number five rebar and cap stamped "PLS 356548" and the True Point of Beginning. Thence South 00°21'24" West 200.00 feet coincident with said right of way line to a number five rebar and cap stamped "PLS 356548"; Thence South 89°34'56" West 435.60 feet to a number five rebar and cap stamped "PLS 356548"; Thence North 00°21'24" East 200.00 feet to a point on said north section line and a number five rebar and cap stamped "PLS 356548"; Thence North 89°34'56" East 435.60 feet coincident with said section line to the point of beginning.

Contains 1 Lot, 2.00 acres, 87,112 sq. ft.



OWNERS DEDICATION

Known all men by these presents that we, the undersigned owners of the above described tract of land having caused the same to be subdivided into lots, public streets and common open space as shown on this plat and name said tract Miller's Flats Subdivision, and hereby grant and dedicate to the county all those parts or portions of said tract of land designated as public streets the same to be used as public thoroughfares forever, and also dedicate to Weber County those certain strips as easements for public utility and drainage purposes as shown hereon, with no buildings or structures being erected within such easements.

Signed this _____ day of _____, 2021.

Gilbert C. Miller, husband

Meda B. Miller, wife

ACKNOWLEDGMENT

STATE OF UTAH } S.S.
 COUNTY OF WEBER }

On the _____ day of _____, 2021, personally appeared before me, the undersigned Notary, in and for said County of Weber, in said State of Utah, the signers of the above Owner's Dedication, two (2) in number, who duly acknowledged to me that they signed it freely and voluntarily for the purposes therein mentioned.

Notary Public _____ My Commission Expires _____

WEBER MORGAN HEALTH DEPARTMENT

I hereby certify that the soils, percolation rates and site conditions for this subdivision have been investigated by this office and are approved for an on-site waste water system.
 This _____ day of _____, 2021.

 Director, Weber Morgan Health Department

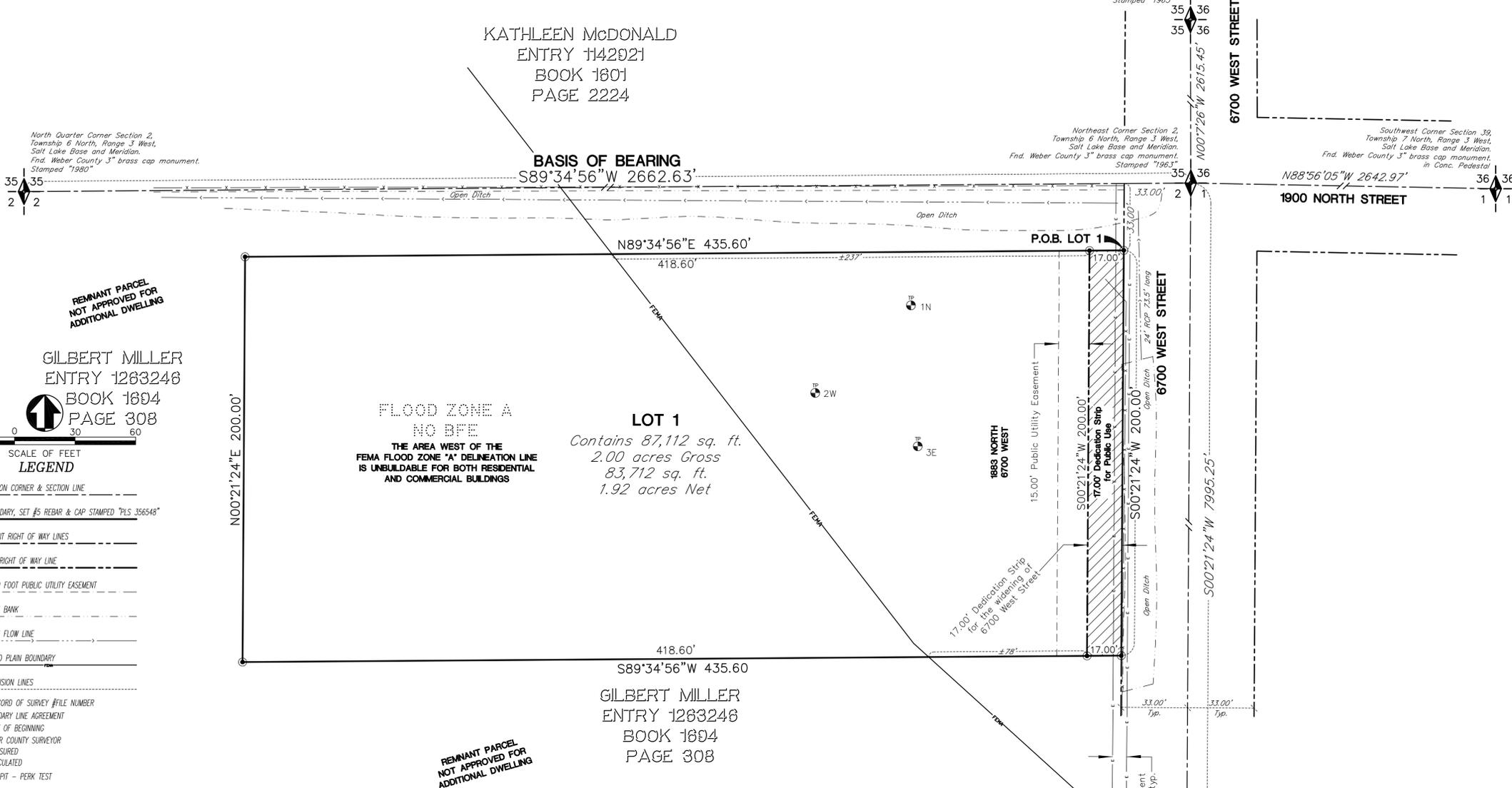
WEBER COUNTY RECORDER

ENTRY NUMBER _____

FEE PAID _____
 FILED FOR RECORD AND RECORDED THIS _____

DAY OF _____, 2021, IN BOOK _____, AT PAGE _____ OF THE OFFICIAL RECORDS.

DEPUTY COUNTY RECORDER _____



GILBERT MILLER
 ENTRY 1263246
 BOOK 1694
 PAGE 308

SCALE OF FEET
 LEGEND

- 29 | 28 = SECTION CORNER & SECTION LINE
- 32 | 33 = BOUNDARY, SET #5 REBAR & CAP STAMPED "PLS 356548"
- = EXTANT RIGHT OF WAY LINES
- = NEW RIGHT OF WAY LINE
- = 15.00 FOOT PUBLIC UTILITY EASEMENT
- - - = DITCH BANK
- - - = DITCH FLOW LINE
- - - = FLOOD PLAIN BOUNDARY
- · — · — = DIMENSION LINES

ROS # = RECORD OF SURVEY #/FILE NUMBER
 BLA = BOUNDARY LINE AGREEMENT
 POB = POINT OF BEGINNING
 WCS = WEBER COUNTY SURVEYOR
 MEAS. = MEASURED
 CALC. = CALCULATED
 TP = TEST PIT - PERK TEST

PREPARED BY:
Boundary Consultants
 Professional Land Surveyors
 5554 West 2425 North, Hooper, Utah
 801-792-1569
 dave@boundaryconsultants.biz

FOR:
 Gilbert and Jim Miller
 1831 North 6700 West
 West Warren, Utah 84404

PLAT NOTE:
 "Agriculture is the preferred use in the agriculture zones. Agricultural operations as specified in the Land Use Code for a particular zone are permitted at any time including the operation of farm machinery and no allowed agricultural use shall be subject to restrictions on the basis that it interferes with activities of future residents of this subdivision."
 WCO 106-1-8(c)(5).

WEBER COUNTY ATTORNEY
 I have examined the financial guarantee and other documents associated with this subdivision plat and in my opinion they conform with the County Ordinance applicable thereto and now in force and affect.
 Signed this _____ day of _____, 2021.

 Signature

COUNTY SURVEYOR'S CERTIFICATE
 I hereby certify that the Weber County Surveyor's Office has reviewed this plat and all conditions for approval by this office have been satisfied. The approval of this plat by the Weber County Surveyor does not relieve the Licensed Land Surveyor who execute this plat from the responsibilities and/or liabilities associated therewith.
 Signed this _____ day of _____, 2021.

 Signature

WEBER COUNTY ENGINEER
 I hereby certify that the required public improvement standards and drawings for this subdivision conform with County standards and the amount of the financial guarantee is sufficient for the installation of these improvements.
 Signed this _____ day of _____, 2021.

 Signature

WEBER COUNTY PLANNING COMMISSION APPROVAL
 This is to certify that this subdivision plat was duly approved by the Weber County Planning Commission on the _____ day of _____, 2021.

 Chairman, Weber County Planning Commission

WEBER COUNTY COMMISSION ACCEPTANCE
 This is to certify that this subdivision plat, the dedication of streets and other public ways and financial guarantee of public improvements associated with this subdivision, thereon are hereby approved and accepted by the Commissioners of Weber County, Utah this _____ day of _____, 2021.

 Chairman, Weber County Commission
 Attest: _____
 Title: _____

ENTRY NUMBER _____
 FEE PAID _____
 FILED FOR RECORD AND RECORDED THIS _____
 DAY OF _____, 2021, IN BOOK _____, AT PAGE _____ OF THE OFFICIAL RECORDS.
 DEPUTY COUNTY RECORDER _____

West Warren-Warren Water Improvement District
1561 S. 7500 W.
Ogden, UT 84404
801-259-7614
westwarrenwtr@gmail.com

4/27/21

To Whom It May Concern:

RE: CULINARY WATER WILL-SERVE LETTER FOR Jim Miller

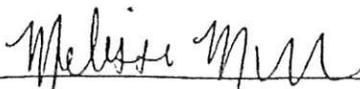
This proposed building/residence is located at approx. 1889 N. 6700 W. unincorporated Weber County. The property has not yet been assigned a parcel number, but it will consist of one residence. The West Warren-Warren Water Improvement District (hereafter the District) will supply culinary water to this proposed building/residence.

Jim Miller has provided the board with proof of secondary water and will deliver secondary water by means of a retention pond and irrigation ditch. The board has voted and approved CULINARY WATER WILL-SERVE LETTER for the future use on said property, contingent upon the following conditions:

- The Weber Basin Water Rights Impact Fee must be paid for each unit of service prior to issuance of this will-serve letter and prior to commencement of construction, to enable the purchase of sufficient water to service the district. Failure to pay said fee will result in measures halting construction. PAID as of 4/23/21.
- The Capital Facilities Impact Fee and Connection fee Without Existing Service Lateral or Connection Fee With Existing Service Lateral, must be paid prior to installation of a meter and water connection lines and materials. Per the water district's contract with Weber Basin, no water can be delivered until all fees have been paid.
- The installation of a functioning, pressurized, secondary water delivery system for any subdivision over 2 lots, inspected and approved by the WWWID board chairman, prior to final inspection of the home. Pressure requirements are a minimum of 50 to a maximum of 80 lbsp.
- Any amendments to the original plat or the plan for the secondary water system will need a new approval by the water board at a monthly meeting.
- All water lines, materials and installations must be done to the specification of the WWWID board, and must be inspected by the board chairman, or his designee, along with any necessary bacterial testing required by the state.
- A deposit of \$100.00 for metered water to be used during construction, must be paid prior to the commencement of construction.

Should you have clerical questions or comments, please contact the district clerk. Please direct questions regarding water systems, materials, etc., to (801-791-7368) Randy Giordano, Chairman of the WWWID Board. This letter expires 1 year from the day it is issued.

Sincerely,



Melissa Murray, Clerk

West Warren-Warren Water Improvement District

To Whom It May Concern,

Exhibit C

I, Gilbert C. Miller give Jim T. Miller 2 hours per week of pumping rights from my retention pond located on my property at 1831 N. 6700 W. Warren UT 84404 to be used as secondary water that can be transferable to upon the sale of properties.

If you have any questions, concerns, or if I can be of further assistance, I can be reached at 801-389-4083.

Regards,

A handwritten signature in blue ink, appearing to read "Gilbert C. Miller", with a long horizontal flourish extending to the right.

Gilbert C. Miller

BRIAN COWAN, MPH, LEHS
Health Officer/Executive Director



April 22, 2021

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

RE: Gilbert Miller
1831 N 6700 W Warren, UT
Parcel #10-029-0001
Soil log #14913

Gentlemen:

The soil and percolation information for the above-referenced lot have been reviewed. Culinary water will be provided by West Warren-Warren Water Improvement District, an approved community water system. **A letter from the water supplier is required prior to issuance of a permit.**

DESIGN REQUIREMENTS

Anticipated ground water tables not to exceed 12 inches, fall within the range of acceptability for the utilization of a Wisconsin Mound Treatment System or a Packed Bed Media Treatment System followed by an At-Grade absorption area as a means of wastewater disposal. Maximum trench depth is limited to 0 inches. The absorption field is to be designed using a maximum loading rate of 0.22 gal/ft²/day for a Wisconsin Mound absorption area, or 0.4 gal/ft²/day for the At-Grade absorption area as required for the clay loam, granular structure soil horizon.

ENGINEERING CONSIDERATION

This property is adjacent to a canal to the north and a pond created by overflow runoff from a well in the center. The proposed wastewater disposal system absorption and replacement areas must maintain a minimum setback of 100 feet from all ditches, canals, bodies of surface water, etc. This setback can be reduced to 50 feet for Packed Bed Media Systems.

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

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

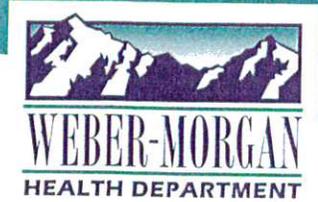
Each on-site individual wastewater disposal system must be installed in accordance with R317-4, Utah Administrative Code, Individual Wastewater Disposal Systems and Weber-Morgan District Health Department Rules. Final approval will be given only after an on-site inspection of the completed project and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

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

Sincerely,

Ryan Klinge
Environmental Health Division
801-399-7160

BRIAN COWAN, MPH, LEHS
Health Officer/Executive Director



April 22, 2021

Jim Miller
2189 N 4425 W
Plain City, Utah 84404

Subject: Water Table Monitoring, Located at 1831 N 6700 W in Ogden, Utah. Parcel #10-029-0001.

This letter is to notify you of the results for water table monitoring conducted on your property. Monitoring was performed from January 14, 2021 through March 18, 2021.

The high water table for the subject property was measured at 25 inches below ground surface throughout the monitoring period. In years where the precipitation falls below seasonal averages, Utah Administrative Code R317-4 allows for an adjusted maximum water table based on one or more of the following:

- i. Regular monitoring of the ground water table, or ground water table, perched, in an observation well for a period of one year, or for the period of the maximum groundwater table
 - (1) Previous ground water records and climatological or other information may be consulted for each site proposed for an onsite wastewater system and may be used to adjust the observed maximum ground water table elevation.
- ii. Direct visual observation of the maximum ground water table in a soil exploration pit for:
 - (1) Evidence of crystals of salt left by the maximum ground water table; or
 - (2) Chemically reduced iron in the soil, reflected by redoximorphic features, i.e. a mottled coloring.
 - (3) Previous ground water records and climatological or other information may be consulted for each site proposed for an onsite wastewater system and may be used to adjust the observed maximum ground water table elevation in determining the anticipated maximum ground water table elevation.

The water table for the subject property remained below 12 inches throughout the monitoring period. Therefore, a **Wisconsin Mound Wastewater Disposal System or Packed Bed Media Wastewater Disposal System with an At-Grade Absorption Area** would be suitable for the property with respect to water table.

The Weber-Morgan Health Department does not assert that this property meets zoning, subdivision or any other development feasibility requirements.

If not already accomplished, the following requirements must be satisfied in accordance with Utah Administrative code R317-4 and Weber-Morgan Health Department Onsite Wastewater Treatment System regulation, before the Weber-Morgan Health Department is able to issue a letter of feasibility for residential development on the property:

1. Approval of onsite systems in western Weber County is made in accordance with the Ground Water Management Plan for Western Weber County, (adopted by the Weber-Morgan Board of Health 27 August 2001). The plan addresses replacement systems and density requirements.
2. **Drinking water.** Indicate the source. If a private well is used to supply drinking water, the well must be installed and approved.
3. **Soils Evaluation and Percolation Testing.** Soil exploration pits shall be made at the minimum rate of one exploration pit per lot proposed. Application and guidance for soils evaluation are available at the health department or online at www.webermorganhealth.org. Percolation tests may be required based on soil types and must be performed by a certified individual. A list of certified individuals is available at the health department.

After the requirements above are satisfied, the health department will issue a letter of feasibility for the placement of an onsite wastewater disposal system on the subject property.

Once feasibility has been demonstrated, and the following requirements have been satisfied, the health department will then be able to issue an Onsite Wastewater Disposal Permit:

1. **System design.** Alternative systems must be designed by a Certified, level 3 onsite systems professional or other qualified professional. The system must be designed in accordance with Utah State Rule, R317-4, Onsite Wastewater Systems and Weber-Morgan Health Department Rules for Individual Wastewater Systems.
2. **Building plans.** Plans must include the property's dimensions, topographical features, easements, a floor plan (indicating the number of bedrooms and basement, if applicable), driveways and outbuildings and lot dimensions, placement of the onsite system and the location of system replacement area (must accommodate 100% replacement of the original system).
3. **Subdivision plans.** The location of all exploration pits and percolation test holes shall be clearly identified on the subdivision final plat and identified by a key number or letter designation. The results of such soil test, including stratified depths of soils and final percolation rates for each lot shall be recorded on or with the final plat.

Attached is a copy of all water table measurements and observations. Please contact this office or the undersigned at 801-399-7160 if you have questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Klinge", with a stylized flourish extending to the right.

Ryan Klinge
Environmental Health Division
Weber-Morgan Health Department

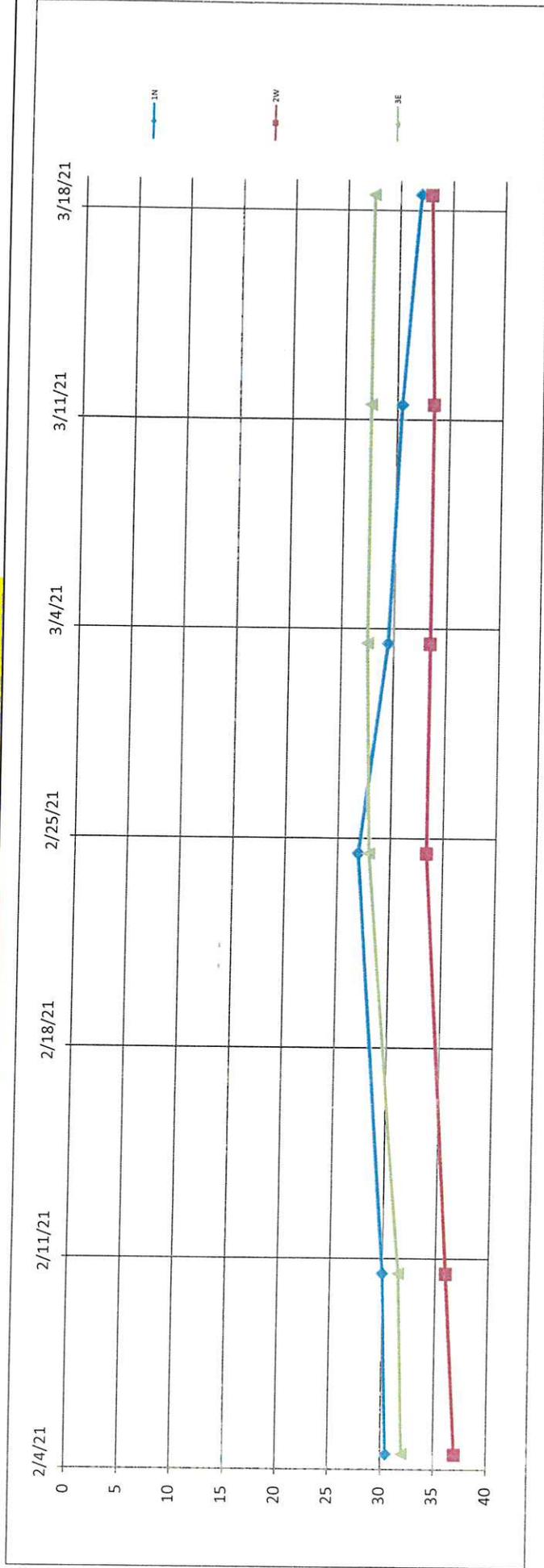
2021 WATER TABLE DATA

Name: Jim Miller
 Address: 1831 N 6700 W
 Land serial: 1002900001

number of wells	3
number of sites	1
total readings	0

Table Key	
	exceed 36"
	exceed 24"
	exceed 12"

DATE	1/14/21	1/21/21	1/28/21	2/4/21	2/10/21	2/18/21	2/24/21	3/3/21	3/11/21	3/18/21	10	11	12	13	14	15	16	17
READING #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
WELL #	Water Depth																	
1N	35.5	36	34	30.5	30	25	27	29.5	30.5	32								
2W	39.5	39	37.5	37	36	34.5	33.5	33.5	33.5	33								
3E	31.5	33	32.5	32	31.5	28.5	28	27.5	27.5	27.5								





Staff Report for Administrative Approval

Weber County Planning Division

Synopsis

Application Information

Application Request:	Reconsideration and action for final plat approval of Middle Fork Ranches 3rd Amendment
Type of Decision:	Administrative
Agenda Date:	Tuesday, September 29, 2020
Applicant:	Troy Green
File Number:	UVM071120

Property Information

Approximate Address:	7522 E 1400 N
Project Area:	5.87 total acres
Zoning:	Forest Valley 3 (FV-3), Agricultural Valley 3 (AV-3)
Existing Land Use:	Residential
Proposed Land Use:	Residential
Parcel ID:	21-048-0008, 21-005-0036
Township, Range, Section:	T6N, R2E, Section 6, SW

Adjacent Land Use

North:	Vacant	South:	Vacant Residential
East:	Vacant Residential	West:	Residential

Staff Information

Report Presenter:	Scott Perkes sperkes@co.weber.ut.us 801-399-8772
Report Reviewer:	RG

Applicable Ordinances

- Title 104 Chapter 6, Agricultural Valley Zone
- Title 104, Chapter 14, Forest Valley Zone
- Title 104, Zones, Chapter 28, Ogden Valley Sensitive Lands Overlay Districts
- Title 106, Subdivisions, Chapter 1-8 as applicable
- Title 108, Natural Hazards Areas
- Title 108, Drinking Water Source Protection

Background and Summary

The applicant is requesting final approval of Middle Fork Ranches 3rd Amendment, consisting of one lot. The proposed Lot 25 was originally Lot 8 of the Middle Fork Ranches Subdivision. The proposed amendment adds Parcel 21-005-0036 into the subdivision boundary to widen the resulting lot (see **Exhibit A**).

When first submitted, Planning Staff requested that this amendment be used to dedicate a full half-width right-of-way along the eastern property line for future roadway connectivity. This plat configuration was originally approved during September 2nd, 2020 Administrative Review Meeting. However, the applicant appealed the decision to dedicate the half-width right-of-way, and requested that the decision be reviewed by the Utah Office of The Property Rights Ombudsman. In response, the Ombudsman issued an advisory opinion (dated July 16th, 2021) (see **Exhibit B**), the summary of this opinion reads as follows:

"The County's requirement to dedicate a 33-foot wide strip of land for a future right-of-way to serve future development does not solve a problem created by the Green's development proposal. The Greens' amended plat simply merges two parcels without changing the use of the land or increasing the use's density. Requiring the dedication would force the Greens' to offset impacts beyond their own. The requirement therefore fails the applicable rough proportionality test, and is unlawful. Accordingly, the County may not impose the requirement as a condition of amended plat approval."

In reviewing the Ombudsman’s opinion with the Weber County Attorney’s Office, planning staff recommended that the applicant resubmit a subdivision plat that removes the originally requested ROW dedication. This revised plat could then be rescheduled for Administrative Review.

Analysis

General Plan: The request is in conformance with the Ogden Valley General Plan as it is intended to preserve private property rights while also preserving the rural characteristics of the Valley.

Zoning: The northern third of the subject property is located in the Forest Valley Zone (FV-3). The southern two-thirds of the subject property are located in the Agricultural Valley 3 Zone (AV-3). The purpose and intent of these zones is described in LUC §104-6-1 & §104-14-1 as follows:

AV-3 Zone:

The AV-3 Zone is both an agricultural zone and a low-density rural residential zone. The purpose of the AV-3 Zone is to:

- (a) Designate low-intensity farm areas, which are anticipated to develop in a rural residential development pattern;*
- (b) Set up guidelines to continue agricultural pursuits, including the keeping of farm animals; and*
- (c) Direct orderly low-density residential development in a continuing rural environment.*

FV-3 Zone:

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

As part of the subdivision process, the proposal has been reviewed against the current subdivision ordinance standards for both the AV-3 and FV-3 zones in LUC §104-6 & §104-14 respectively. The proposed subdivision is in conformance with county code. The following is a brief synopsis of the review criteria and conformance with the LUC.

Lot area, frontage/width and yard regulations:

Both the AV-3 and FV-3 zones require a 3-acre minimum lot area and a minimum lot width of 150 feet. The amended lot will result in 5.914 acres in area and will have 311 feet of frontage on 1400 North Street.

Access: Access to this lot is provided by a 15-foot wide access easement across the northern boundary of Lot 21 as depicted on the Middle Fork Ranches First Amendment mylar. The current owner of Lot 21 has indicated that this easement hugs the fence line from west to east along its northern property line from 7425 East Street. This alignment has been disputed in the past between the owner of Lot 21 and the applicant which has resulted in a court ruling to clarify that this access easement is immediately adjacent to the existing fence line. This court ruling has been recorded as Entry #: 3065929.

Natural Hazards Areas: The proposed subdivision is located in both a geologic hazard area and a FEME Flood Zone “AE”. This AE Zone is determined by FEMA to be a High Risk Area and has been depicted on the plat along with base flood elevations.

As the existing lot already has a single-family home built, a geologic hazard assessment was not required for subdivision review. However, as a condition of approval, a “Natural Hazards Disclosure” document will be required to be recorded with the plat to provide adequate notice for future property owners that the lot is located within a geologic hazard area.

Stream Corridors: Per the Ogden Valley Sensitive Lands map, the subject property has a natural ephemeral stream that traverses through the already identified flood zone. Evidence of this stream is not readily visible on-site. As such, the determination of any high-water marks will need to be reviewed by the County engineer and 50-foot setbacks will need to be determined prior to the issuance of building permits on this lot.

Culinary water and sanitary sewage disposal: Feasibility letters were not required with the proposal as this lot has been previously platted.

Public Well-Head Protection Zones: The subject property is located within Zone 4 of a public well head protection zone. As such, any development on the lot is subject to LUC §108-18 (Drinking Water Source Protection)

Review Agencies: Prior to the subdivision being released for Mylar, all remaining review agencies comments will need to be addressed.

Tax clearance: The 2020 property taxes have been paid in full. The 2021 property taxes will be due in full on November 1, 2021.

Public Notice: The required noticing for the final subdivision plat amendment approval has been mailed to all property owners of record within 500 feet of the subject property per noticing requirements outlined in LUC §106-1-6(c).

Staff Recommendation

Staff recommends final approval of Middle Fork Ranches Third Amendment. This recommendation for approval is subject to all applicable review agency requirements and is based on the following conditions:

1. A "Natural Hazards Disclosure" document will be required to be recorded to provide adequate notice of any geotechnical and geological recommendations for future property owners.

This recommendation is based on the following findings:

1. The proposed subdivision amendment conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision amendment complies with all previous approvals and the applicable County ordinances.

Administrative Approval

Administrative final approval of Middle Fork Ranches 3rd Amendment is hereby granted based upon its compliance with the Weber County Land Use Code. This approval is subject to the requirements of applicable review agencies and the conditions of approval listed in this staff report.

Date of Administrative Approval: _____

Rick Grover
Weber County Planning Director

Exhibits

- A. Middle For Ranches 3rd Amendment Plat (ROW Dedication Removed)
- B. Advisory Opinion - Utah Office of The Property Rights Ombudsman

Location Map 1



MIDDLE FORK RANCHES THIRD AMENDMENT

AMENDING LOT 8, MIDDLE FORK RANCHES SUBDIVISION
WEBER COUNTY, UTAH
A PART OF THE SOUTHWEST QUARTER OF SECTION 6,
TOWNSHIP 6 NORTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN
JUNE 2020

SURVEYOR'S CERTIFICATE

I, ROGER C. SLADE, DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 5B, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT; AND I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THIS PLAT, AND HAVE HEREBY AMENDED AND SUBDIVIDED SAID TRACT INTO ONE (1) LOT, KNOWN HEREAFTER AS MIDDLE FORK RANCHES THIRD AMENDMENT IN WEBER COUNTY, UTAH, AND HAS BEEN CORRECTLY DRAWN TO THE DESIGNATED SCALE AND IS TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LANDS INCLUDED IN SAID SUBDIVISION, BASED UPON DATA COMPILED FROM RECORDS IN THE WEBER COUNTY RECORDER'S OFFICE AND FROM SAID SURVEY MADE BY ME OR UNDER MY SUPERVISION ON THE GROUND, I FURTHER HEREBY CERTIFY THAT THE REQUIREMENTS OF ALL APPLICABLE STATUTES AND ORDINANCES OF WEBER COUNTY CONCERNING ZONING REQUIREMENTS REGARDING LOT MEASUREMENTS HAVE BEEN COMPLIED WITH.

SIGNED THIS _____ DAY OF _____, 2021.

ROGER C. SLADE, P.L.S.
UTAH LAND SURVEYOR LICENCE NO. 11386802



SUBDIVISION BOUNDARY DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 6 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN.

BEGINNING AT THE NORTHEAST CORNER OF LOT 21, MIDDLE FORK RANCHES FIRST AMENDMENT, RECORDED AS ENTRY NO. 2785086 IN THE WEBER COUNTY RECORDER'S OFFICE ALSO BEING THE NORTHWEST CORNER OF LOT 8 MIDDLE FORK RANCHES, RECORDED AS ENTRY NO. 614116 LOCATED 2518.96 FEET NORTH 89°03'22" EAST ALONG THE EAST / WEST CENTER SECTION LINE AND 2.61 FEET SOUTH 00°05'00" WEST TO AN OLD 1/2" REBAR MARKING THE CENTER OF SAID SECTION 6 PER SAID MIDDLE FORK RANCHES AND 81.20 FEET NORTH 89°33'30" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 6;

RUNNING THENCE NORTH 89°33'30" EAST 281.40 FEET ALONG THE NORTH LINE OF SAID LOT 8 TO THE NORTHEAST CORNER OF TROY AND VICTORIA GREEN PROPERTY TAX ID NO. 21-005-0036; THENCE ALONG THE BOUNDARY OF SAID GREEN PROPERTY THE FOLLOWING TWO (2) COURSES: (1) SOUTH 01°38'00" WEST 800.00 FEET; AND (2) NORTH 90°00'00" WEST 41.01 FEET TO THE EAST LINE OF SAID LOT 8; THENCE ALONG THE BOUNDARY OF SAID LOT 8 THE FOLLOWING FOUR (4) COURSES (1) SOUTH 00°22'27" WEST 22.69 FEET TO THE NORTH RIGHT-OF-WAY LINE OF 1400 NORTH STREET; (2) NORTH 89°38'00" WEST 177.00 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; (3) WESTERLY TO THE RIGHT ALONG THE ARC OF A 337.86 FOOT RADIUS CURVE, A DISTANCE OF 134.99 FEET, CHORD BEARS NORTH 78°11'15" WEST 134.09 FEET, HAVING A CENTRAL ANGLE OF 22°53'30" ALONG SAID NORTH RIGHT-OF-WAY LINE TO THE SOUTHEAST CORNER OF SAID LOT 21; AND (4) NORTH 06°32'42" EAST 796.81 FEET ALONG THE EAST LINE OF SAID LOT 21 TO THE POINT OF BEGINNING. CONTAINING 257,630 SQUARE FEET OR 5.914 ACRES.

TOGETHER WITH A 15' WIDE RIGHT-OF-WAY ACROSS LOT 21, MIDDLE FORK RANCHES FIRST AMENDMENT, RECORDED AS ENTRY NO. 2785086.

OWNER'S DEDICATION AND CERTIFICATION

WE THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND, DO HEREBY SET APART, AMEND AND SUBDIVIDE THE SAME INTO LOTS AS SHOWN HEREON AND NAME SAID TRACT MIDDLE FORK RANCHES THIRD AMENDMENT, AND DO HEREBY GRANT AND DEDICATE IN PERPETUITY, PURSUANT TO THE PROVISIONS OF 17-27A-607, UTAH CODE, WITHOUT CONDITION, RESTRICTION OR RESERVATION TO WEBER COUNTY, UTAH, ALL THOSE CERTAIN STRIPS OF SAID TRACT OF LAND UPON AND UNDER THE LANDS DESIGNATED HEREOF AS PUBLIC UTILITY EASEMENTS, THE SAME TO BE USED FOR THE INSTALLATION MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES AND DRAINAGE, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS. WE ALSO DEDICATE TO PUBLIC USE ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS STREETS, THE SAME TO BE USED AS PUBLIC THOROUGHFARES. WE HEREBY DECLARE THE PLAT NOTES SHOWN HEREON TO BE EFFECTIVE AND BINDING.

SIGNED THIS _____ DAY OF _____, 2021.

TROY GREEN

VICTORIA GREEN

ACKNOWLEDGMENT

STATE OF UTAH)
)
COUNTY OF WEBER)

ON THIS _____ DAY OF _____, 2021, TROY GREEN AND VICTORIA GREEN, HUSBAND AND WIFE AS JOINT TENANTS, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN THE STATE OF UTAH, THE SIGNERS OF THE ATTACHED OWNERS DEDICATION, TWO IN NUMBERS, WHO DULY ACKNOWLEDGED TO ME THEY SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSE THEREIN MENTIONED.

NOTARY PUBLIC

WEBER COUNTY RECORDER

ENTRY NO. _____ FEE PAID _____
FILED FOR RECORD AND
RECORDED _____
IN BOOK _____ OF OFFICIAL
RECORDS, PAGE _____ RECORDED
FOR _____
COUNTY RECORDER
BY: _____ DEPUTY

FOUND WEBER COUNTY BRASS CAP
WITNESS CORNER MONUMENT
1980 GOOD CONDITION 3" ABOVE GROUND

EAST QUARTER CORNER OF SEC. 6,
T. 6 N., R. 2 E., SLB&M
CALCULATED POSITION

WEBER COUNTY PLANNING COMMISSION APPROVAL

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED BY THE WEBER COUNTY PLANNING COMMISSION.
SIGNED THIS _____, DAY OF _____, 2021.

CHAIRMAN, WEBER COUNTY PLANNING COMMISSION

WEBER COUNTY ENGINEER

I HEREBY CERTIFY THAT THE REQUIRED PUBLIC IMPROVEMENT STANDARDS AND DRAWINGS FOR THIS SUBDIVISION CONFORM WITH THE COUNTY STANDARDS AND THE AMOUNT OF THE FINANCIAL GUARANTEE IS SUFFICIENT FOR THE INSTALLATION OF THESE IMPROVEMENTS.
SIGNED THIS _____, DAY OF _____, 2021.

WEBER COUNTY ENGINEER

WEBER COUNTY ATTORNEY

I HAVE EXAMINED THE FINANCIAL GUARANTEE AND OTHER DOCUMENTS ASSOCIATED WITH THIS SUBDIVISION PLAT, AND IN MY OPINION THEY CONFORM WITH THE COUNTY ORDINANCE APPLICABLE THERETO AND NOW IN FORCE AND AFFECT
SIGNED THIS _____, DAY OF _____, 2021.

WEBER COUNTY ATTORNEY

WEBER COUNTY COMMISSION ACCEPTANCE

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT, THE DEDICATION OF STREETS AND OTHER PUBLIC WAYS AND FINANCIAL GUARANTEE OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION, THEREON ARE HEREBY APPROVED AND ACCEPTED BY THE COMMISSIONERS OF WEBER COUNTY UTAH
SIGNED THIS _____, DAY OF _____, 2021.

CHAIRMAN, WEBER COUNTY COMMISSION

ATTEST

WEBER COUNTY SURVEYOR

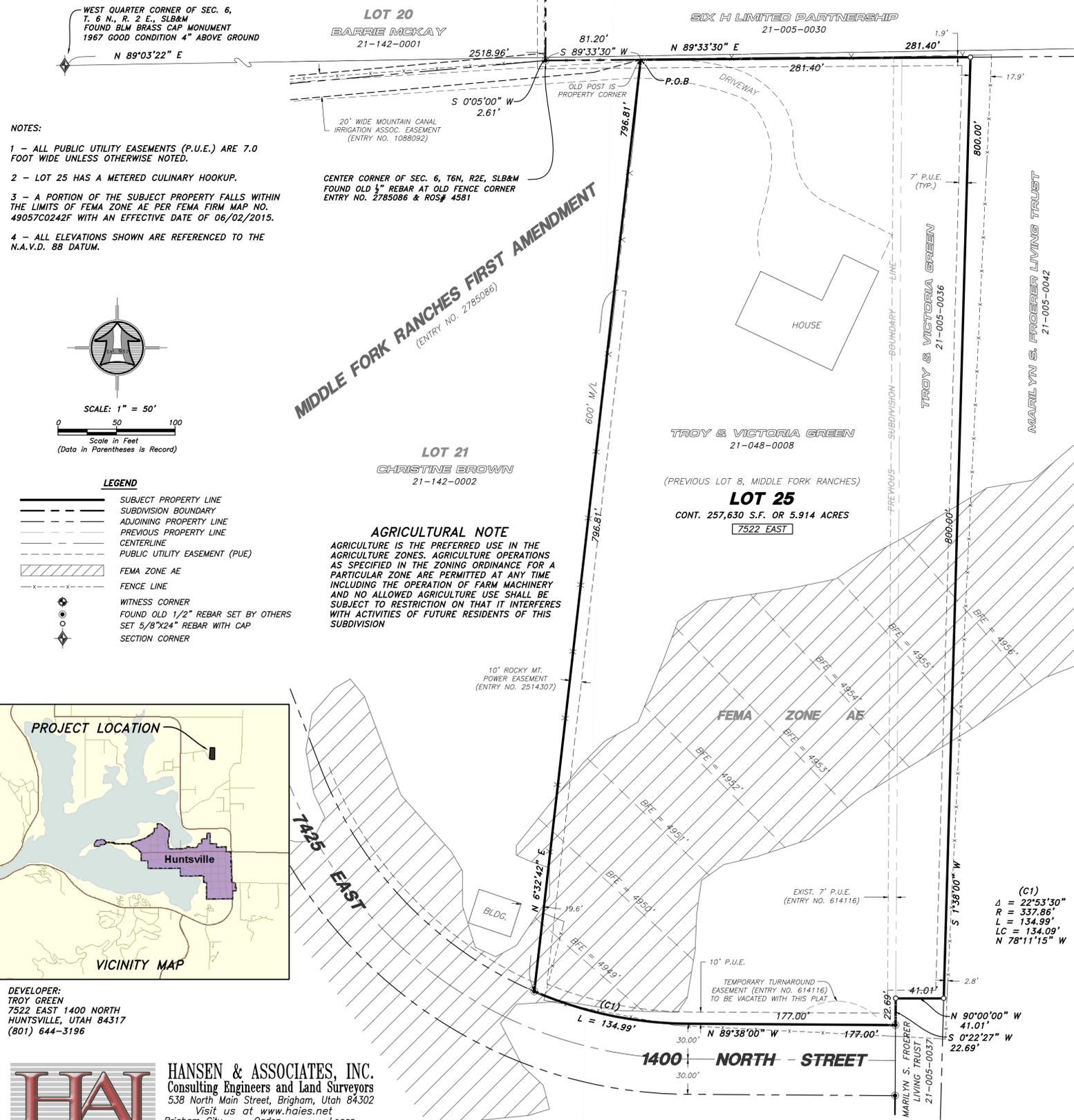
I HEREBY CERTIFY THAT THE WEBER COUNTY SURVEYOR'S OFFICE HAS REVIEWED THIS PLAT AND ALL CONDITIONS FOR APPROVAL BY THIS OFFICE HAVE BEEN SATISFIED. THE APPROVAL OF THIS PLAT BY THE WEBER COUNTY SURVEYOR DOES NOT RELIEVE THE LICENSED LAND SURVEYOR WHO EXECUTED THIS PLAT FROM THE RESPONSIBILITIES AND/OR LIABILITIES ASSOCIATED THERewith.
SIGNED THIS _____, DAY OF _____, 2021.

WEBER COUNTY SURVEYOR

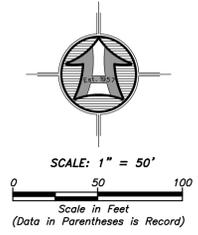
NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO AMEND LOT 8, MIDDLE FORK RANCHES AND PROPERTY TAX ID NO. 21-005-0036 AND TO ESTABLISH AND SET THE PROPERTY CORNERS AS SHOWN AND DESCRIBED HEREON. THIS SURVEY WAS ORDERED BY TROY GREEN. THE CONTROL USED TO ESTABLISH THE PROPERTY CORNERS WAS MIDDLE FORK RANCHES (ENTRY NO. 614116), MIDDLE FORK RANCHES FIRST AMENDMENT (ENTRY NO. 2785086) AND ROS# 4581 ALONG WITH THE EXISTING WEBER COUNTY SURVEYOR MONUMENTATION SURROUNDING SECTION 6, TOWNSHIP 6 NORTH, RANGE 2 EAST, S.L.B.&M.

THE BASIS OF BEARING IS THE EAST / WEST CENTER SECTION LINE OF SAID SECTION WHICH BEARS NORTH 89°07'40" EAST, ROTATED TO MATCH THE BEARINGS SHOWN ON MIDDLE FORK RANCHES.

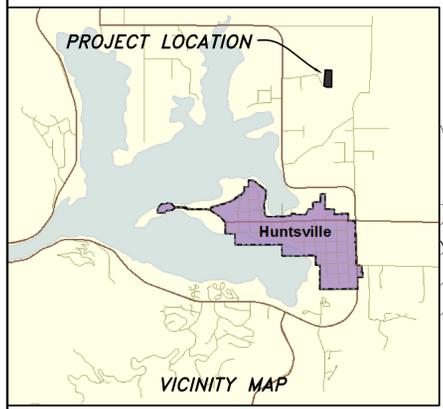


- NOTES:
1 - ALL PUBLIC UTILITY EASEMENTS (P.U.E.) ARE 7.0 FOOT WIDE UNLESS OTHERWISE NOTED.
2 - LOT 25 HAS A METERED CULINARY HOOKUP.
3 - A PORTION OF THE SUBJECT PROPERTY FALLS WITHIN THE LIMITS OF FEMA ZONE AE PER FEMA FIRM MAP NO. 49057C0242F WITH AN EFFECTIVE DATE OF 06/02/2015.
4 - ALL ELEVATIONS SHOWN ARE REFERENCED TO THE N.A.V.D. 88 DATUM.



- LEGEND
SUBJECT PROPERTY LINE
SUBDIVISION BOUNDARY
ADJOINING PROPERTY LINE
PREVIOUS PROPERTY LINE
CENTERLINE
PUBLIC UTILITY EASEMENT (PUE)
FEMA ZONE AE
FENCE LINE
WITNESS CORNER
FOUND OLD 1/2" REBAR SET BY OTHERS
SET 5/8"x24" REBAR WITH CAP
SECTION CORNER

AGRICULTURAL NOTE
AGRICULTURE IS THE PREFERRED USE IN THE AGRICULTURE ZONES. AGRICULTURE OPERATIONS AS SPECIFIED IN THE ZONING ORDINANCE FOR A PARTICULAR ZONE ARE PERMITTED AT ANY TIME INCLUDING THE OPERATION OF FARM MACHINERY AND NO ALLOWED AGRICULTURE USE SHALL BE SUBJECT TO RESTRICTION ON THAT IT INTERFERES WITH ACTIVITIES OF FUTURE RESIDENTS OF THIS SUBDIVISION



DEVELOPER:
TROY GREEN
7522 EAST 1400 NORTH
HUNTSVILLE, UTAH 84317
(801) 644-3196

HAI
HANSEN & ASSOCIATES, INC.
Consulting Engineers and Land Surveyors
538 North Main Street, Brigham, Utah 84302
Visit us at www.haies.net
Brigham City Ogdan Logan
(435) 723-3491 (801) 399-4905 (435) 752-8272
Celebrating over 60 Years of Business



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

State of Utah Department of Commerce

Exhibit B

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

MARGARET W. BUSSE
Executive Director

JORDAN S. CULLIMORE
Division Director, Office of the Property Rights Ombudsman

ADVISORY OPINION

Advisory Opinion Requested By: Troy Green

Local Government Entity: Weber County

Applicant for Land Use Approval: Troy & Victoria Green

Type of Property: Residential

Date of this Advisory Opinion: July 16, 2021

Opinion Authored By: Jordan S. Cullimore
Office of the Property Rights Ombudsman

ISSUE

Is Weber County's requirement to dedicate to the County a 33-foot wide strip of land for a future road as a condition of approval for an amended plat application a legal exaction?

SUMMARY OF ADVISORY OPINION

The County's requirement to dedicate a 33-foot wide strip of land for a future right-of-way to serve future development does not solve a problem created by the Greens' development proposal. The Greens' amended plat simply merges two parcels without changing the use of the land or increasing the use's intensity. Requiring the dedication would force the Greens' to offset impacts beyond their own. The requirement therefore fails the applicable rough proportionality test, and is unlawful. Accordingly, the County may not impose the requirement as a condition of amended plat approval.

REVIEW

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of Title 13, Chapter 43, Section 205 of the Utah Code. An advisory opinion is meant to provide an early review, before any duty

to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Troy Green, on September 23, 2020. A copy of that request was sent via certified mail to Ricky D. Hatch, Weber County Clerk/Auditor, 2380 Washington Blvd., STE 320, Ogden, Utah.

EVIDENCE

The Ombudsman's Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for an Advisory Opinion submitted by Troy Green on September 23, 2020.
2. Response submitted by Scott Perkes, Planner for Weber County, received on October 21, 2020.
3. Reply submitted by Zane Froerer, Attorney for Troy Green, received April 6, 2021.
4. Reply submitted by Scott Perkes, Planner for Weber County, received May 3, 2021.

BACKGROUND

Troy and Victoria Green's home sits on an approximately 5-acre lot located at 7522 East 1400 North in Huntsville, Utah. Recently, the Greens submitted an application to the Weber County Planning Division to combine their 5-acre lot with an adjacent 0.88-acre strip of land that the Greens already own and have already been using as part of their property. The purpose of the proposed merger was to make the property large enough to qualify for tax treatment as a "greenbelt" parcel.¹ The Greens' did not propose to change the use of the property.

The County approved, with conditions, the Greens' amended plat application to combine the parcels in a public Administrative Review Meeting on September 2, 2020. Among the conditions the County imposed was a requirement to dedicate a 33-foot right-of-way along the full length of the eastern boundary of the proposed lot for a future roadway that would eventually provide access to adjacent, undeveloped land. The dedication would comprise approximately 0.6 acre and would provide for a half-width of the future roadway. The County's condition only requires dedication of the land, and does not require installation of any improvements for the road.

¹ See generally Utah Code Chapter 59-2, Part 5. The Utah Farmland Assessment Act, referred to as the "greenbelt law" is a law that "allows qualifying agricultural property to be assessed and taxed based upon its productive capabilities instead of the prevailing market value." "Utah Farmland Assessment Act," *Utah County Assessor*, July 15, 2021, available at <https://www.utahcounty.gov/dept/assess/new/Greenbelt.html>.

The Greens view the County’s requirement to dedicate 0.6 acre of the Greens’ land for a roadway as an excessive, and therefore unlawful, exaction. The County disagrees. Consequently, Mr. Green submitted a Request for Advisory Opinion to this office asking us to determine whether the County’s exaction is lawful, in order to resolve the dispute.

ANALYSIS

I. Development Exactions Must Satisfy the “Rough Proportionality” Test to be Lawful

The County requirement to dedicate land for a roadway as a condition of amended plat approval is a development exaction. Utah law defines development exactions as “conditions imposed by governmental entities on developers for the issuance of [development approval]” that “typically require the permanent surrender of private property for public use.”²

Exactions implicate the Takings Clause of the U.S. Constitution and Article I Section 22 of the Utah Constitution, which protect private property from governmental taking without just compensation. The standard for measuring whether an exaction imposed by a county is lawful is found at Utah Code § 17-27A-507(1):

A county may impose an exaction or exactions on development proposed in a land use application...if:

- (a) an essential link exists between a legitimate governmental interest and each exaction; and
- (b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

This standard lays out a two-part “rough proportionality” test for determining whether an imposed exaction appropriately offsets the impacts of a development proposal. If the proposed exaction satisfies the legal test, the exaction is a proper exercise of the local government’s police power to regulate for health, safety, and welfare.³ If, however, the exaction lacks an essential link to a legitimate government interest, or is disproportionate to the impact of the proposed development, the exaction is excessive and an unlawful taking of property without compensation.⁴ A principal objective of the test is to “bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.”⁵

This test was originally established in the U.S. Supreme Court decisions of *Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). The Utah

² *B.A.M. Dev., LLC v. Salt Lake County* (BAM I), 2006 UT 2, ¶ 34.

³ See Shelley Ross Saxer, *Exactions and Impact Fees*, 7 Brigham-Kanner Property Rights Conf. J. 77, 83 (2018) (“Insisting that landowners internalized the negative externalities of their conduct is a hallmark of responsible land-use policy....”).

⁴ See *Banberry Development Corporation v. South Jordan City*, 631 P.2d 899, 903 (Utah 1981).

⁵ *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

Supreme Court has also provided additional guidance on how to apply this test to a given situation in *B.A.M. Development, LLC v. Salt Lake County* (BAM II), 2008 UT 74.

In BAM II, the court explained that the second part of the test—the rough proportionality analysis—has two aspects: “first, the exaction and impact must be related in nature; second, they must be related in extent.”⁶ The “nature” aspect of rough proportionality focuses on the relationship between the anticipated impact and the proposed exaction. The court described the approach “in terms of a solution and a problem.... [T]he impact is the problem, or the burden which the community will bear because of the development. The exaction should address the problem. If it does, then the nature component has been satisfied.”⁷

The “extent” aspect of the rough proportionality analysis measures the impact against the proposed exaction in terms of cost.⁸ (“The most appropriate measure is cost—specifically, the cost of the exaction and the impact to the developer and the municipality, respectively.”). The court explained that “roughly proportional” means “roughly equivalent.”⁹ Thus, in order to be valid, the cost of an exaction must be roughly equivalent to the cost that a local government would incur to mitigate impacts attributable to development.

In a third “B.A.M.” decision, the Utah Supreme Court summarized the entire analysis, firmly tying a proposed exaction to infrastructure needs *created by the development*:

[N]ot only must the nature of an exaction relate to government purpose or need (in that the exaction must alleviate the burdens imposed on infrastructure by the development), but the extent of the exaction must also be roughly proportional to the government’s need for infrastructure improvements created by the development.¹⁰

Accordingly, the County’s requirement that the Greens dedicate thirty-three feet of land for a future right-of-way must satisfy all parts of the rough proportionality test to be lawful.

Finally, the City possesses the burden to show the proposed exaction is proportionate to the development’s impacts.¹¹ “*No precise mathematical calculation is required*, but the city must make some sort of *individualized determination* that the required dedication is related both in nature and extent to the impact of the proposed development.”¹²

Accordingly, we will analyze the County’s reasons for imposing the dedication requirement to determine “whether [their] findings are constitutionally sufficient to justify the conditions imposed” on the Greens’ amended plat application.¹³

⁶ *Id.* at ¶ 9.

⁷ *Id.* at ¶ 10.

⁸ *Id.* at ¶ 11.

⁹ *Id.* at ¶ 8.

¹⁰ *B.A.M. Development, LLC v. Salt Lake County*, 2012 UT 26.

¹¹ *See Dolan*, 512 U.S. at 391-92.

¹² *Id.* at 391 (emphasis added).

¹³ *Id.* at 389.

II. An Essential Link Exists between the County’s Proposed Exaction and a Legitimate Government Interest

The first part of Utah Code section § 17-27A-507(1) requires an essential link between a legitimate governmental interest and the imposed exaction. In this case, the County’s legitimate governmental interest is safe and efficient access and traffic flow. Constructing new roadways is a vital component in accomplishing this objective.¹⁴ Requiring roads to serve proposed development satisfies this interest. Accordingly, the County’s dedication requirement complies with the first part of the rough proportionality test.

III. The County’s Dedication Requirement Fails the Nature Aspect of the Rough Proportionality Analysis

Next, we turn to the second requirement under Utah Code § 17-27A-507(1)—that the proposed exaction be “roughly proportionate...to the impact of the proposed development.”¹⁵ As described above, this part of the test requires the County, on a case-by-case basis, to “make some sort of individualized determination that the required [exaction] is related both in nature and extent to the impact of the proposed development.”¹⁶

A. *The Nature Aspect of Rough Proportionality*

The nature aspect of the rough proportionality analysis requires that the proposed exaction solve a problem, or impact, created by the proposed development. In this case, and for reasons explained below, the County’s requirement to dedicate land for a future right-of-way to access adjacent land fails this aspect of the analysis. When a proposed exaction fails to meet any portion of the rough proportionality test, the exaction is unlawful.

The County, in its submission to our office, states that the purpose of the dedication requirement is to “preserve the area for a future road” for future development. The County states the area of the Greens’ land “represents a future north-south road alignment to provide adequate access near a quarter-section line for adjacent, undeveloped property.”

Nowhere here does the County assert the Greens are changing the use of their land to a more intense use or creating additional impact on County services to the lot. In fact, it appears undisputed that the use of the land is not changing at all. Moreover, the county has nowhere indicated the 33-foot right-of-way is needed to provide access to *Mr. Green’s* development or address an impact created by the amended plat proposal. The dedication requirement here will prospectively offset the impact of some future development proposal with impacts unrelated to the Greens’ current application.

¹⁴ See *Carrier v. Lindquist*, 2001 UT 105, ¶ 18, 37 P.3d 1112, 1117 (“In order for a government to be effective, it needs the power to establish or relocate public thoroughways . . . for the convenience and safety of the general public.”) See also Utah Code § 10-8-8.

¹⁵ Utah Code § 17-27A-507(1)(b).

¹⁶ *Dolan*, 512 U.S. at 391.

To satisfy the nature aspect of the rough proportionality analysis, the County would need to show the dedication requirement is addressing a problem created by the Greens' development proposal. The County has failed to make this showing.

Because the Greens' amended plat does not create any new traffic impacts that would need to be addressed by land dedications for roads, it would be improper for the County to impose a dedication requirement for right-of-way to ostensibly offsets such impacts. Finally, the dedication requirement would require the Greens to offset impacts beyond their own, which is also improper.¹⁷

The County cites Weber County Code § 106-2-1(a) as support for its dedication requirement. This provision states, in relevant part that the street arrangement in subdivisions “must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.”

The Greens have not proposed new street arrangements as part of the amended plat. No one has indicated the Greens need new streets for access to their property. The County is requiring a through connection to benefit *adjacent*, undeveloped land.¹⁸ There is no indication here that the adjacent property owner currently has legal access through the Greens' land. Accordingly, if the Greens decline to provide access to that land for whatever reason, it would not cause unnecessary hardship to the adjacent landowners who have lost nothing.¹⁹ The County may not require, as an exaction, that the Greens' dedicate right of way to serve adjacent, undeveloped land simply because the adjacent land does not currently have access.²⁰ This is not an impact created by the Greens' development proposal.

The County also cites Weber County Code § 106-2-2(a) to support its position that the Greens must dedicate the 33-foot right-of-way. This provision states that County may require public dedication of streets for major or loop road access in “mountain land subdivisions”. Even if the local code allows the County to require dedication generally, if the requirement violates constitutional principles when applied to a specific development proposal, as it does here, then the County may not impose the requirement.²¹

¹⁷ See *Banberry Development Corporation v. South Jordan City*, 631 P.2d 899, 903 (Utah 1981).

¹⁸ The County, in its submission, states that an adjacent owner of 196.56 acres of undeveloped property located immediately to the north of the Greens' property will need the future roadway for his development. Again, this is an impact created by the adjacent owner's future development whenever it develops, and not by the Greens.

¹⁹ Nothing here would prevent the landowners from negotiating for access to the undeveloped land.

²⁰ This is not to say that the County may not plan for future corridors, limit development in those areas, and acquire land for future rights-of-way. It is simply to say that when the development proposal at issue doesn't warrant acquisition by exaction, as is the case here, the County, or the adjacent landowner seeking access, must potentially negotiate and pay for the land when they are ready to acquire it. See generally Utah Code Chapter 72-5, Part 4.

²¹ See generally *B.A.M. Dev., LLC v. Salt Lake County* (BAM I), 2006 UT 2 (Noting that exactions resulting from a legislative scheme, as well as those imposed administratively, are subject to the rough proportionality test.)

B. Unnecessary to Consider Extent Aspect of Rough Proportionality

Since the County's requirement to dedicate thirty-three feet of the Greens' land for a future right-of-way does not satisfy the nature aspect of the rough proportionality analysis, the requirement fails the entire rough proportionality test and the County may not legally impose it. Accordingly, we do not need to consider the extent aspect of the test in this case.

CONCLUSION

The County's requirement to dedicate thirty-three feet of land for a future right-of-way to serve future development does not solve a problem created by the Greens' development proposal and it would require the Greens' to offset impacts beyond their own. The requirement therefore fails the rough proportionality test, and is unlawful. Accordingly, the County may not require the Greens to dedicate the 33-foot right-of-way as a condition of amended plat approval.



Jordan S. Cullimore, Lead Attorney
Office of the Property Rights Ombudsman

NOTE:

This is an advisory opinion as defined in Section 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution. Additionally, a civil penalty may also be available if the court finds that the opposing party—if either a land use applicant or a government entity—knowingly and intentionally violated the law governing that cause of action.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees and civil penalty provisions, found in Section 13-43-206 of the Utah Code, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.