



BOARD OF ADJUSTMENT

MEETING AGENDA

Thursday, July 11, 2019
4:30 p.m.

**Pledge of Allegiance*

Regular Agenda Items

1. Presentation: Douglas Dickson
2. Minutes: Approval of the May 10, 2018 meeting minutes.
3. BOA 2019-02 Consideration and action on a request for a variance to the 100ft stream corridor setback for the purpose of building a single-family dwelling.
4. Election: Election for Chair and Vice Chair 2019
5. Schedule & Information: 2019 Meetings and Information List
6. Rules of Order Approval of Rules of Order
7. Adjournment

The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah.

Please enter the building through the front door on Washington Blvd. if arriving to the meeting after 5:00 p.m.

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791

Minutes of the Board of Adjustments meeting of May 10, 2018, held in the Weber County Commission Chambers, 2380 Washington Blvd. Floor 1, Ogden UT at 5:00 p.m.

Members Present: Bryce Froerer-Chair
Rex Mumford-Vice Chair
Phil Hancock

Staff Present: Rick Grover, Planning Director; Courtlan Erikson, Legal Counsel; Marta Borchert, Secretary

- **Pledge of Allegiance**
- **Roll Call**

1. Minutes Approval of the November 10, 2016, and March 10, 2018 meeting minutes.

Chair Froerer states that he was not in attendance for the March 22, 2018 meeting and he would like to defer to Mr. Hancock and Mr. Mumford for with regards to these minutes. He asks if everyone has had a chance to review the minutes for 11-10-2016. Mr. Mumford states that they look better than the first time. He states that there are some sections where the name is spelled wrong. It shifts back and for between Marini and Martini. Mr. Hancock Motions to approve minutes for November 10, 2018, with the noted corrections. Mr. Mumford seconds. Motion carries (3-0)

Chair Froerer reiterates that he was not in attendance at the meeting for March 22, 2018. He asks Mr. Hancock and Mr. Mumford if there are any corrections. Mr. Erikson notes that in the portions where there are motions, it is written motion carries (5-0), it should be written (3-0) where Mr. Hancock recused himself. It should read (4-0) for the minutes and after he rejoined the board.

Chair Froerer moves to approve the minutes for March 22, 2018, with the noted corrections. Mr. Mumford seconds. Motion carries (3-0)

2. Adjournment

Chair Froerer moves to adjourn the meeting. Mr. Mumford seconds. Motion carries (3-0)

Meeting Adjourned-4:47 PM

Respectfully Submitted,
Marta Borchert



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a variance to the 100-foot stream corridor setback for the purpose of building a single-family dwelling

Agenda Date: TBA

Applicant: Brent & Jennifer Whetton

File Number: BOA 2019-02

Property Information

Approximate Address: 2463 E 5950 N, Liberty UT

Project Area: 1.24 acres

Zoning: Forest Valley Zone (FV-3)

Existing Land Use: Residential

Proposed Land Use: Remain as existing

Parcel ID: 22-003-0008

Township, Range, Section: T7N, R1E, Section 6 SW

Adjacent Land Use

North: 5950 North St	South: Forest
East: Residential	West: Forest

Staff Information

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

Report Reviewer: SB

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 14 (Forest Valley FV-3 Zone)
- Weber County Land Use Code Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands Overlay Districts)

Background

The applicant is requesting a variance for a reduction to the stream corridor setback requirements of the Ogden Valley Sensitive Lands Ordinance in order to build a single-family residence.

The application and an explanation of the request (Exhibit A) have been prepared by the applicant. Exhibit B is a site plan from the applicant. Exhibit C is the recorded Buildable Parcel Letter, showing the legal status of the subject parcel. Exhibit D is a map locating drainages requiring a setback. Exhibit E is the applicable portion of the Land Use Code regarding stream corridor setbacks.

This property was first approved and recorded in May of 2018 as a lot of record. This 1.47-acre lot is accessed by a public right of way (5950 North St.). This site plan shows the intended area for the proposed residence, in Exhibit B, which lies upslope from the North Fork River, and outside of the floodplain, that runs from the northwestern corner to the southeastern corner of the parcel. Adhering to a 100-foot setback from the high water mark would push the buildable area well within the required setbacks for the FV-3 zone.

On December 20, 2005 the Weber County Commission approved an ordinance amendment (2005-19) which created setback requirements from natural ephemeral streams (drainages) such as this. On January 22, 2008 this text was moved to a separate chapter for properties in the Ogden Valley and included in the Ogden Valley Sensitive Lands Overlay Districts (2008-4). This later amendment included maps of those streams for which the setbacks were to be applied (see Exhibit E).

The request for the 48 foot variance to build within the stream corridor is based on the following items:

- There is no suitable building area within the 1.24 acre lot, if the required stream corridor setbacks are enforced. Much of the lot is covered in a stream corridor and its' setbacks.
- The applicant is in the process of acquiring the adjacent parcel (22-003-0004), to increase their buildable area.
- The proposed building site lies outside of the nearby FEMA flood zone.
- County Engineering has no concerns with this request.

Summary of Board of Adjustment Considerations

Title 102 Chapter 3 of the Weber County Land Use Code states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. In order for a variance to be granted it must be shown that all of the following criteria have been met:

- a. *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 1. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
 2. *In determining whether or not literal enforcement of the land use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice done.*

Staff's analysis and findings are discussed below:

- a. Although the lot area is large enough to develop, the location of the year-round river makes it difficult, if not impossible, to meet the minimum county requirements for a single-family dwelling. While many other owners in the FV-3 Zone have properties similar in size, most do not have the unique challenge of developing around a stream corridor. This lot has a limited buildable area, and a specific point of access.
- b. The special circumstances attached to this property are based on the slope, access, and reduced buildable area created by the presence of a natural, year-round stream.
- c. Zoning gives the property owner rights to construct a single-family dwelling. Without an approved variance request, this lot may not be further developed.
- d. No changes to the General Plan will result if the variance is granted
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but to allow a property owner the right to develop this parcel according to permitted uses for the FV-3 zone. Granting the request would serve as substantial justice to allow the current owners continued enjoyment of their property.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FV-3 Zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Conditions of Approval

- That proposed dwelling maintains a minimum distance of 52 feet to the stream at the nearest location, and that the proposed site plan be followed.
- The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native vegetation and wildlife along the river or stream.
- Meet all other applicable review agency requirements.

Staff Recommendation

Staff recommends *approval* of the variance for a 48-foot encroachment into a 100' stream corridor setback based on its compliance with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Application and narrative
- B. Applicants early site plan
- C. Recorded Buildable Parcel Letter
- D. Map of stream corridors
- E. Applicable sections of the Sensitive Lands Ordinance

Maps



Exhibit A – Application and narrative

Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) BRIAN & JENNIFER WHETTON		Mailing Address of Property Owner(s) 5989 N. 2250 E. LIBERTY UT 84310	
Phone 801-710-6276	Fax —		
Email Address BURWEEET99@GMAIL.COM		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) BRIAN KEITH - ENVISION HOMES		Mailing Address of Authorized Person P.O. BOX 1114 EDEN UT 84310	
Phone 801-390-3909	Fax		
Email Address ENVISIONHOMES@HOTMAIL.COM		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

A variance request:

Lot area
 Yard setback
 Frontage width
 Other: **STREAM CORRIDOR SETBACK**

An Interpretation of the Zoning Ordinance

An Interpretation of the Zoning Map

A hearing to decide appeal where it is alleged by applicant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance

Other: _____

Property Information

Approximate Address 2463 E. 5950 NO. LIBERTY UT 84310		Land Serial Number(s) PANEL # 22-003-0008	
Current Zoning FV-3			
Existing Measurements		Required Measurements (Office Use)	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback SEE SITE PLAN	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

THE WHITTONS WOULD LIKE TO BUILD A HOUSE ON THIS PARCEL & ARE REQUESTING A VARIANCE FROM THE REQUIRED SET BACK OF 100' FROM THE HIGH WATER MARK OF THE RIVER. THE WHITTONS RECEIVED A "NOTICE OF BUILDABLE PARCEL" DATED 5/4/2018 THE WHITTONS ARE PURSUING PURCHASING AN ADJACENT LOT/PARCEL OWNED BY LIBERTY WATER TO TRY AND COMPLY TO THE SET BACK AS COMPLETELY AS POSSIBLE. THE ATTACHED SITE PLAN SHOWS THE HOUSE LOCATED AS FAR AWAY FROM THE RIVER AS POSSIBLE & ON THE ADJACENT PROPERTY THEY ARE PURCHASING AT ITS CLOSEST THE HOUSE WOULD BE 52' TO THE HIGH WATER MARK. BY LOOKING AT THE SITE PLAN YOU CAN ALSO SEE THAT IT WOULD BE IMPOSSIBLE TO MEET THE 100' SET BACK, FOR ANY SIZE HOUSE. IT SEEMS REASONABLE AND JUST TO ALLOW A VARIANCE IN THIS SITUATION IN ORDER TO ALLOW THE WHITTONS THE SAME LEVEL OF USAGE OF THEIR LOT AS THEIR NEIGHBORS.

THINGS TO CONSIDER -

1. LOTS UNIQUE SHAPE LIMITS BUILDABLE SPACE
2. LOT HAS BEE IN EXISTANCE SINCE FIG. PER NOBP
3. THE LOT SITS SUBSTANTIALLY HIGHER THAN RIVER (Foundation elevation closest to river is 7 feet above the high water mark)
4. WOULD NOT SIT IN THE FLOOD ZONE
5. RIVER DOES NOT RUN YEAR AROUND

Variance Request

The Board of Adjustment may grant a variance only if the following five criteria are met. Please explain how this variance request meets the following five criteria:

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.
- a. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- b. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

NOT BUILDABLE -

NO LOCATION ON THE LOT CAN MEET THE 100' REQUIREMENT

Variance Request (continued...)

2. There are special circumstances attached to the property that do not generally apply to the other properties in the same zone.

a. In determining whether there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.

Please describe the special circumstances attached to the property that do not generally apply to the other properties in the same zone:

RIVER —

THE RIVER SET BACK WOULD PREVENT USAGE OF THE LOT.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

THE VARIANCE IS ESSENTIAL TO ALLOW THE HOMEOWNER TO BUILD ON THE LOT THAT IS DETERMINED BY THE COUNTY "BUILDABLE".

Variance Request (continued...)

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

LOT EXISTS & WILL NOT EFFECT GENERAL PLAN

5. The spirit of the land use ordinance is observed and substantial justice done.

BECAUSE OF THE UNIQUE SHAPE OF THE LOT & THE RIVER SET BACK, A VARIANCE SHOULD BE GRANTED. THIS LOT IS A GOOD EXAMPLE OF THE NEED FOR THE "VARIANCE" PROCESS.

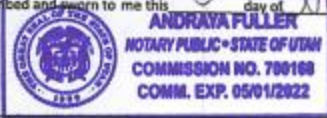
Property Owner Affidavit

I (We), Brent and Jennifer Whetten, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Brent Whetten (Property Owner)

Jennifer A Whetten (Property Owner)

Subscribed and sworn to me this 5 June, 2019



Andraya Fuller (Notary)

Authorized Representative Affidavit

I (We), _____, the owner(s) of the real property described in the attached application, do authorize as my (our) representative(s), _____, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

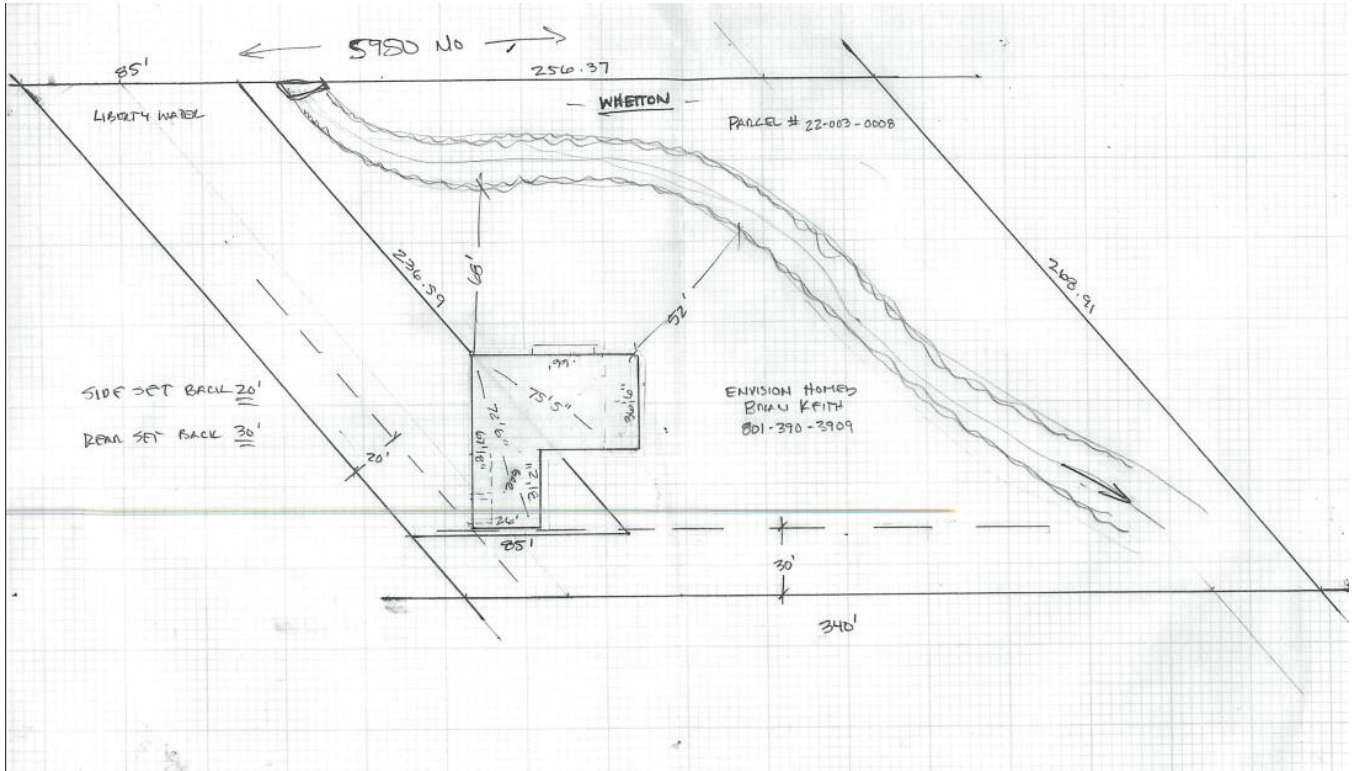
(Property Owner)

(Property Owner)

Dated this _____ day of _____, 20____, personally appeared before me _____, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

(Notary)

Exhibit B - Applicant's Early Site Plan





Weber County

Notice of Buildable Parcel



W2919405

EH: 2919405 PG 1 OF 3
LEANN H KILTS, WEBER COUNTY RECORDER
08-MAY-18 2:19 PM FEE \$1.00 DEP TH
REC FOR: WEBER COUNTY PLANNING

5/4/2018

Re: Property identified as Parcel # 22-003-0008

Legal Description: See attached Exhibit "A"

To whom it may concern,

The land with Parcel Number 22-003-0008 is currently zoned Forest Valley (FV-3) which allows for a variety of uses, including a single-family dwelling, when located on a "Lot of Record" as defined in Title 101 of the Weber County Land Use Code (LUC). The subject parcel was found to be a "Lot of Record" as defined in LUC§101-1-7 paragraph 1 below:

Lot of record. A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or*
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or*
- (3) A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or*
- (4) A parcel or lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or*
- (5) A parcel or lot that was created in its current size and configuration and contained a lawfully permitted single family dwelling prior to July 1, 1992; or*
- (6) A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.*

The Weber County Planning Division can issue a Land Use Permit to develop this parcel, as it exists today; provided that all applicable standards are met and that the parcel's legal description is not altered without receiving approval from the Land Use Authority.

This letter addresses the legal status of the parcel and the findings provided are based upon the parcel's conformance with the Weber County Land Use Code as described above. The site has not been inspected to ensure that existing uses are allowed and existing structures meet required yard setbacks. These factors can affect a land owner's ability to obtain a Land Use Permit and Building Permit. There may also be additional requirements that need to be met prior to the issuance of future permits.



Weber County

Dated this 4 day of May, 2018

Felix Lloverino

Felix Lloverino, Planner
Weber County Planning Division

STATE OF UTAH)

:SS

COUNTY OF WEBER)

On . this 4 day of May, 2018 personally appeared before me,
Felix Lloverino, the signer of the foregoing instrument, who duly acknowledged
to me that he executed the same.

Angela Martin

Notary Public

Residing at:





Weber County

Exhibit "A"

Parcel # 22-003-0008

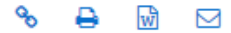
PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT NORTH 85D39' EAST 953.02 FEET ALONG THE SECTION LINE FROM THE SOUTHWEST CORNER OF SAID SECTION 6, AND RUNNING THENCE NORTH 48D34'40" WEST 32.85 FEET; THENCE NORTH 85D39' EAST 85 FEET; THENCE NORTH 45D31'20" WEST 236.50 FEET TO THE SOUTH LINE OF A COUNTY ROAD; THENCE NORTH 85D30' EAST ALONG SAID SOUTH LINE 256.37 FEET; THENCE SOUTH 45D34'54" EAST 268.91 FEET TO THE SECTION LINE; THENCE SOUTH 85D39' WEST ALONG SAID SECTION LINE 340 FEET TO THE POINT OF BEGINNING. TOGETHER WITH THE FOLLOWING DESCRIBED RIGHT OF WAY OVER AN EXISTING 8 FOOT WIDE GRAVEL ROADWAY DESCRIBED AS FOLLOWS: A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT ON THE WESTERLY LINE OF AN EXISTING GRAVEL ROAD, SAID POINT BEING NORTH 85D39' EAST, ALONG THE SECTION LINE, 953.02 FEET, NORTH 48D34'40" WEST, 32.85 FEET AND NORTH 85D39' EAST, 4.25 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 6; RUNNING THENCE ALONG THE WESTERLY LINE OF SAID GRAVEL ROAD THE FOLLOWING FIVE COURSES, NORTH 36D46'59" WEST, 47.04 FEET; THENCE NORTH 39D43'50" WEST, 53.75 FEET; THENCE NORTH 28D36'50" WEST, 33.99 FEET; THENCE NORTH 13D58'46" WEST, 34.89 FEET; THENCE NORTH 02D21'33" WEST, 29.34 FEET TO THE EASTERLY LINE OF THE GRANTORS PROPERTY; THENCE ALONG THE EASTERLY LINE SOUTH 45D31'20" EAST, 11.69 FEET TO THE EASTERLY LINE OF SAID GRAVEL ROAD; THENCE ALONG SAID GRAVEL ROAD THE FOLLOWING FIVE COURSES; SOUTH 02D21'33" EAST, 20.00 FEET; THENCE SOUTH 13D58'46" EAST, 33.05 FEET; THENCE SOUTH 28D36'50" EAST, 32.18 FEET; THENCE SOUTH 39D43'50" EAST, 53.18 FEET; THENCE SOUTH 36D46'59" EAST, 52.33 FEET; THENCE LEAVING SAID EASTERLY LINE SOUTH 85D39' WEST, 9.47 FEET TO THE WESTERLY LINE OF SAID GRAVEL ROAD AND THE POINT OF BEGINNING. (E# 1519632 BOOK 1905 PAGE 2266)

Exhibit D - Map of Stream Corridors



Exhibit E – Applicable Sections of the Sensitive Lands Ordinance

Sec. 104-28-2. - Stream corridors, wetlands, and shorelines.



- (a) *Reports.* At the request of the county an approved jurisdictional wetland delineation report and concurrence report from the United State Army Corps of Engineers shall be required.
- (b) *Development standards.*
 - (1) *Setbacks.* No structure, accessory structure, road, or parking area shall be built within the required setback from a river or stream as measured from the high water mark of the river or stream. The high water mark shall be determined by the Weber County engineer. The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native vegetation and wildlife along the river or stream.
 - a. Structures, accessory structures, roads, or parking areas shall not be developed or located within 100 feet on both sides of the North Fork, South Fork, and Middle Fork of the Ogden River, from the high water mark of the river.
 - b. Structures, accessory structures, roads, or parking areas shall not be developed or located within 75 feet on both sides of year-round streams, as determined from the high water mark of the stream.
 - c. Structures, accessory structures, roads, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.
 - d. Structures, accessory structures, roads, or parking areas shall not be developed or located within 100 feet on all sides of Pineview Reservoir, as determined from the high water mark of Pineview Reservoir.

2019

JANUARY

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CALENDAR KEY :

	Western Weber County Planning Commission
	Ogden Valley Planning Commission (1 st Tues. Work Session)
	Board of Adjustment (Scheduled only if a case is received)
	WACOG
	County Holidays
	PC/BOA Annual Dinner
	Administrative Review Meeting (ADM)
	Agency Review Committee (ARC)
	ELECTIONS

APRIL

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2019

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OCTOBER						
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BOARD OF ADJUSTMENT

Regular Members

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Bryce M. Froerer, Chair

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**WEBER COUNTY BOARD OF ADJUSTMENT
RULES OF PROCEDURE AND ETHICAL CONDUCT**

A Board of Adjustment shall be governed by the provisions of all applicable Statutes, County Ordinances and these rules.

I

MEMBERS

The Board of Adjustment shall each consist of five voting members, and two alternates, all of whom shall be citizen members appointed by the County Commission in accordance with the provisions of Utah Code Annotated and Weber County Ordinances .

II

OFFICERS AND DUTIES

A. Chair and Vice Chair

The Board of Adjustment shall elect annually, during the first regularly scheduled meeting in January, a Chair and Vice Chair who may be elected to succeed themselves for one additional term only. The Chairman shall be elected from the voting members of the Board of Adjustment by a majority of the total membership. The Chair, or in his/her absence or incapacity, the Vice Chair, shall preside over all meetings and hearings of the Board of Adjustment and shall execute all official documents and letters of the Board of Adjustment.

B. Secretary

The Director of Planning or his/her designated Staff member shall be the Secretary of the Board of Adjustment.

III

MEETINGS

A. Quorum

Three (3) or more members shall constitute a quorum for the transaction of business and the taking of official action; however, in the case of only three members in attendance, a unanimous vote shall be required to approve or deny an application.

B. Time of Meeting

Regular meetings shall be held on the second and fourth Thursdays of each month, or at the call of the Chair, at a time to be scheduled by Staff in the Weber County Commission Chambers of the Weber Center, 2380 Washington Blvd., Ogden. The date of the regular meeting may be changed by the majority of the total membership of the Board of Adjustment provided at least one week notice is given each member of the new date of a regular meeting.

C. Meetings Open to the Public

All regular or special meetings of the Board of Adjustment shall be open to the public.

D. Order of Business

The order of business shall be:

1. Approval of the minutes of previous meeting
2. Petitions for Variance, Special Exceptions or other applicable matters.
3. Other Business
4. Adjournment

The Board of Adjustment may change the order of business or consider matters out of order for the convenience of the applicants or other interested persons.

E. Voting

An affirmative vote of the three (3) or more of the voting members present at the meeting shall decide all matters under consideration by the Board of Adjustment unless otherwise provided for in these rules.

Voting shall be by voice vote. The Chair votes on all questions unless the Chair has declared a conflict of interest on a specific issue under consideration before the Board of Adjustment. No voting member of the Board shall be allowed to abstain from voting on any matter under consideration by the Board, unless that member has declared a conflict of interest on the matter under consideration before the Board of Adjustment.

F. Parliamentary Procedure

Parliamentary procedure in Board of Adjustment meetings shall be governed by Robert's Rules of Order, as revised.

G. Suspension of Rules

The Board of Adjustment may suspend any of these rules by a majority vote of the entire Board.

H. Record of Meetings

The Secretary of the Board of Adjustment shall keep an accurate record of the proceedings and perform other duties as the Board of Adjustment may determine.

J. Meeting Agenda

The Planning Director or his designated Staff member shall review items proposed for the Board of Adjustment meeting agenda to determine whether all requirements necessary for Board of Adjustment consideration have been complied with. The Board shall establish reasonable deadlines for submission of applications and other items for Board of Adjustment consideration prior to a Board of Adjustment meeting to allow sufficient time for staff and agency review.

K. Non Performance or Misconduct - Removal from Office

In the event any member of the Board of Adjustment shall fail to attend more than seventy percent of the Board of Adjustment meetings held during any one year, the member may be removed from office by an affirmative vote of the majority of the County Commission. Any member of the Board of Adjustment may be removed for cause, upon written charges, by an affirmative vote of the majority of the County Commission. The member shall be provided a Public Hearing, if requested.

IV

CONSIDERATION OF APPLICATIONS

A. Hearing Procedure

Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment. The order of procedure in the hearing of each application shall be as follows:

1. Presentation by the Planning Staff of the application, including staff recommendation.
Presentation shall include the reading of pertinent written comments or reports concerning the application.
2. Additional presentation by applicant or his/her agent.
3. Public comments in favor of application.

4. Public comments against application.
5. Rebuttals by invitation of the Chair.

B. Decisions

Decisions and/or recommendations of the Board of Adjustment shall be final at the end of the meeting at which the matter is decided. The Board of Adjustment Staff shall send a Letter of Decision to the applicant, his/her attorney or agent.

V

RULES OF ETHICAL CONDUCT FOR A BOARD OF ADJUSTMENT MEMBER

Preamble

1. Ethical practice has special relevance to all people who are charged with responsibilities in public service. Board members, whose decisions and actions have long-range consequences for later generations, must be keenly concerned to adhere to ethical principles.
2. Codes of ethics, as commonly adopted, present a catalog of temptations that are prohibited. It cannot be an exhaustive catalog: human imagination is sufficiently rich to discover new variations of old temptations. The existence of a code simply puts a challenge, to some, to find a gap or loop-hole. Emphasis must be put not on the letter of prohibition but on the spirit of observance. A performance standard of ethical behavior will be superior to a specification standard.

A. Conflict of Interest

A Board of Adjustment member to whom some private benefits may come as the result of a Board of Adjustment action should not be a participant in the action.

1. The private benefit may be direct or indirect, create a material, personal gain or provide a distinct advantage to relations or to friends or to groups and associations which hold some share of a person's loyalty. However, mere membership itself in a group or organization shall not be considered a conflict of interest as to Board of Adjustment action concerning such groups or associations unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.
2. A Board member experiencing, in his/her opinion, a conflict of interest, should declare his/her interests publicly, abstain from voting on the action, and may excuse himself/herself from the

room during consideration of the action. He/she should not discuss the matter privately or with any other Board member. The vote of a Board member experiencing a conflict of interest who fails to disqualify himself shall be disallowed.

3. A conflict of interest may exist under these rules although a Board member may not believe he/she has an actual conflict; therefore, a Board member who has any question as to whether a conflict of interest exists under these rules should raise the matter with the other Board members and the County Attorney's representative in order that a determination may be made as to whether a conflict of interest exists.
4. No Board of Adjustment member should engage in any transaction in which he/she has a financial interest, direct or indirect, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.
5. The Board members that the County Commission, in making appointments to the Board of Adjustment, not attempt to exclude whole categories or associations of business, professional, or other persons in anticipation of conflict of interest problems. The service of competent people of good character need not be sacrificed. Their withdrawal from participation in planning matters is necessary only in those specific cases in which a conflict of interest arises.

B. Gifts and Favors

Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility.

The value of a gift or advantage and the relation of the giver to public business should be considered in determining acceptability. Small gifts that come in the form of business lunches, calendars or office bric-a-brac are often, not always, acceptable. In cases of doubt, refuse. In cases of marginal doubt, refuse.

C. Treatment of Information

It is important to discriminate between information that belongs to the public and information that does not.

1. Reports and official records of a public agency must be open on an equal basis to all inquiries. Advice should not be furnished to some unless it is available to all.
2. Information on private affairs that is learned in the course of performing planning duties must be treated in confidence. Private affairs become public affairs when an official action -- such as an

application for Variance or Special Exception -- is requested with respect to them. Only then is a disclosure of relevant information proper.

3. Information contained in studies that are in progress should not be divulged except in accordance with established agency policies on the release of its studies.
4. Prearranged private meetings between a Board of Adjustment member and applicants, their agents, or other interested parties are prohibited. Partisan information on any application received by a Board of Adjustment member whether by mail, telephone, or other communication should be made part of the public record.

D. Political Activity

Membership in a political party and contributions to its finances or activities are matters of individual decision that should neither be required of nor prohibited to Board of Adjustment members.

1. The extent of participation in political activities should be governed by professional judgment as well as limited by any applicable civil service law or regulation.
2. The powers of the Board of Adjustment must not be exercised, nor their duties performed, in any way that will create special advantages for a political party. The special position of a Board of Adjustment member should not be used to obtain contribution or support for a political party and should not be used to obtain partisan favors.
3. Partisan debate of a community's planning program and the consideration of planning in a party's platform is proper. Planning Officials should, however, give political parties equal access to information.

Effective Date:

_____, Chair
Board of Adjustment