



118 Lion Blvd • PO Box 187 • Springdale, UT 84767 • (435) 772-3434

## SPRINGDALE APPEAL AUTHORITY NOTICE AND AGENDA

**THE TOWN OF SPRINGDALE ADMINISTRATIVE HEARING OFFICER, ACTING AS THE APPEAL AUTHORITY, WILL HOLD A PUBLIC MEETING ON**

**THURSDAY, APRIL 2, 2026, AT 10:00 AM,**

**AT THE CANYON COMMUNITY CENTER, 126 LION BOULEVARD, SPRINGDALE, UTAH**

*A live broadcast of this meeting will be available to the public for viewing and listening only.*

**\*\*Please see the electronic login information below.**

1. **Variance:** Wendell Burnette requests a variance to allow disturbance of slopes with a grade greater than 30% on lots 8 and 11 in the Watchman subdivision in order to carry out a residential development on these lots. The lots are in the Foothill Residential Zone. Applicant: Wendell Burnett. Staff contact: Niall Connolly

Written comments regarding this item may be sent to [nconnolly@springdale.utah.gov](mailto:nconnolly@springdale.utah.gov).

**\*To access the live stream for this public meeting, please visit or click the YouTube link below:**

<https://www.youtube.com/@SpringdaleTownPublicMeetings>

This notice was posted at the Springdale Town Hall on March 27, 2026 at approximately 9:00 am/pm by R. Romero.

**NOTICE:** In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting should contact Town Clerk Robin Romero (435.772.3434) at least 48 hours before the meeting.

The official Agenda and Packet Materials for this meeting will be available at: <http://www.springdaletown.com/AgendaCenter>

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Springdale Appeal Authority Meeting - Variance  
Application

Moderated by Bryan Pattison, Administrative Hearing  
Officer

Thursday, April 2, 2026  
10:00 a.m.

118 Lion Boulevard  
Springdale, UT 84767

Reported by: Leilani Danner  
JOB NO.: 7974684

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A P P E A R A N C E S

List of Attendees:

Bryan Pattison, Administrative Hearing Officer

Jared Bates, Rosenberg Associates, Representative for  
the Applicant

Niall Connolly, Principal Planner for the Town of  
Springdale

Robin Romero, Town Clerk

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P R O C E E D I N G S

MR. PATTISON: Good morning. This is a public hearing on a variance application. The applicant is Wendell Burnette. The effected property are two, Lot 8 and 11 in the Watchman subdivision.

The application seeks a variance from Section 10-15B-9A [ph] of Springdale Town Code, which prohibits disturbance of slopes from grades of 30 percent or more.

The applicant desires the variance, as I understand it, to be able to construct a driveway to a home on one of those lots. The applicant is Wendell Burnette. Is Mr. Burnette here?

MR. CONNOLLY: Mr. Burnette is not here, but we have Jared Bates from Rosenberg Engineering [sic] representing him here.

MR. PATTISON: Okay. Jared Bates? I should have known. I saw the truck out in the parking lot. There are five elements -- just as an introduction, there are five elements required to meet -- to obtain a variance.

The first is literal enforcement of the ordinance would cause an unreasonable hardship. The second is there are special circumstances attached to the property that do not generally apply to other

1 properties in the same zone.

2 Three is granting the variance is  
3 essential to the enjoyment of a substantial property  
4 right possessed by other property in the same zone.  
5 Fourth is that the variance will not substantially  
6 affect the general plan or be contrary to the public  
7 interest.

8 And 5, that the spirit of land use  
9 ordinance is observed and substantial evidence -- or  
10 excuse me, substantial justice is done. And the  
11 burden is on the applicant to demonstrate all all five  
12 elements.

13 So, Mr. Bates, please come forward.  
14 I've read -- I've read the application, so I have a  
15 background, but first, if you could -- if you could  
16 walk me through that. I understand there's three  
17 different road options or -- or options to construct  
18 this driveway.

19 MR. BATES: Sure.

20 MR. PATTISON: If you wouldn't mind  
21 just walking me through them so I can understand kind  
22 of the difference between the three?

23 MR. BATES: Yeah. No. And  
24 this -- this is Jared Bates with Rosenberg Associates.  
25 Yeah. So basically what we've looked at -- I don't

1 know if -- Bryan, were you able to go out to the site  
2 and look at the stakes we put out there?

3 MR. PATTISON: I did not. My plan was  
4 to go out after the hearing.

5 MR. BATES: I -- I'd be -- I'd be happy  
6 to join you to -- to run --

7 MR. PATTISON: Yeah, that -- that would  
8 be great --

9 MR. BATES: It's complex --

10 MR. PATTISON: I intended to do it this  
11 weekend, but I was overtaken by events. So --

12 MR. BATES: No, understood. Oh. We  
13 lost our -- our screen.

14 MR. PATTISON: Lost our

15 MR. BATES: I can draw it. No, I'm  
16 just kidding.

17 MR. PATTISON: I've got -- I mean, I've  
18 got --

19 MR. BATES: I can walk up there with  
20 you, I can -- I can -- in person.

21 MR. PATTISON: I've got them here.

22 MR. BATES: Yeah, I can walk up there.

23 MR. PATTISON: Let me get it back up  
24 there.

25 MR. BATES: Yeah because this -- this

1 is super important -- to see the exhibits; right?

2 MR. PATTISON: Well, if -- if --

3 MR. BATES: I -- I can --

4 MR. PATTISON: Yeah, do you want to  
5 come up and --

6 MR. BATES: Yeah, that's fine --

7 MR. PATTISON: -- kind of show me here?

8 MR. BATES: Yeah. Let's see -- how do  
9 we --

10 MR. PATTISON: There's a --

11 MR. BATES: Okay. Sure. What we're  
12 looking at is --

13 MR. PATTISON: Yeah, I've got --

14 MR. BATES: You want to maybe pull them  
15 out real quick? And then we'll look them all  
16 together. It's easier to look at.

17 MR. PATTISON: There's A --

18 MR. BATES: And then --

19 MR. PATTISON: -- and then those all go  
20 together.

21 MR. BATES: Yeah, that's all the same.  
22 And then there's B.

23 MR. PATTISON: B.

24 Coming up?

25 MR. CONNOLLY: Get you an extra

1 microphone --

2 MR. BATES: Okay --

3 MR. CONNOLLY: -- just to --

4 MR. BATES: Sure.

5 MR. PATTISON: If you can't -- if -- if  
6 we're not getting picked up, just let me know, and  
7 we'll --

8 THE REPORTER: Yeah --

9 MR. PATTISON: -- try harder; okay?

10 MR. BATES: Yeah. So basically what  
11 we're looking at here, this is an existing subdivision  
12 that, when it was built -- they've got the -- the  
13 roads -- the accesses down at the bottom of  
14 the -- kind of the valley.

15 What that is -- it's actually a wash  
16 that runs through there. And so that's -- that's kind  
17 of the -- the criteria we're working with. And -- and  
18 what -- what we're trying to do is -- so the -- the  
19 the owner, the guy purchased the property, he's  
20 looking at building a couple houses here.

21 And based on the -- the -- topography,  
22 the -- the safest, best spot for this house that we're  
23 trying to access, which is here on the -- in the page,  
24 that's -- that's basically here.

25 MR. CONNOLLY: We have the screen back

1 if -- if that helps.

2 MR. BATES: Well, I -- I  
3 can -- I'm -- I'm more comfortable here, honestly.

4 MR. PATTISON: I mean, we -- yeah.  
5 Let's go ahead.

6 MR. BATES: Yeah. So -- so  
7 we're -- again --

8 MR. PATTISON: So Lot 8 is here --

9 MR. BATES: Lot 8, correct --

10 MR. PATTISON: -- and that's where the  
11 house is?

12 MR. BATES: Right. That's where the  
13 house is. And so you can see from the topography  
14 there, there's a -- there's a big elevation difference  
15 out here. And, yeah, this is kind of up towards  
16 the -- the top of the hill, kind of a nice spot that  
17 gives you the best view.

18 And so what we're looking at is where  
19 the -- the end of the cul-de-sac is now -- you can  
20 kind of see that here -- and all this is -- is not in  
21 the 30 percent zone. Where the house is at is not in  
22 the 30 percent zone.

23 MR. PATTISON: Is that cul-de-sac  
24 existing?

25 MR. BATES: It's existing. Yeah.

1 If -- if you look, yeah, this is the existing -- you  
2 can see it here. The -- the the lighter gray is -- is  
3 existing. The -- the dark, the black is proposed.  
4 That's how --

5 MR. PATTISON: Okay --

6 MR. BATES: -- you'd look at it and  
7 then mark-up what you want.

8 And then so both -- so the house itself  
9 is with -- is outside of the 30 percent zone, and the  
10 road -- the cul-de-sac is outside of the 30 percent  
11 zone. There's a -- there's, like, a -- an  
12 outcropping, or there's a place where the 30 percent  
13 zone jets out in between them.

14 And so the -- the reason why we looked  
15 at these three options was because if you look  
16 at -- so you have -- there's three options.

17 There's Option A, Option B, and Option  
18 C. So Option C is -- is obviously the one that  
19 we -- we prefer, and that's this one. And what you'll  
20 notice is if you look at the black marks, you can kind  
21 of see how the extent of disturbance for Option C is  
22 much less than A and B, and it -- it's a more direct  
23 route.

24 Basically what it does is -- is --

25 MR. PATTISON: You're -- you're

1 talking -- the disturbance is less because it's a  
2 straighter line from the cul-de-sac to the --

3 MR. BATES: Yeah -- yeah. So --

4 MR. PATTISON: -- house essentially?

5 MR. BATES: A couple of things. Yeah.

6 If you'll notice where -- the -- the elevation of the  
7 cul-de-sac is -- is higher at this point. It's closer  
8 to the elevation of the house.

9 And so if -- if you start at that spot  
10 to get to the house, if you -- if you were to go -- if  
11 you -- if you go outside of the 30 percent zone, you  
12 can kind of see we end up going back towards  
13 the -- the access road.

14 And so that brings this further down in  
15 elevation. And so when you go -- that -- when you do  
16 that, then I've got to make this road steeper, which  
17 requires pavement, which requires a lot more  
18 disturbance and grading just to try to make those  
19 elevations work.

20 The -- the way -- the reason why  
21 the -- why C works or the -- the variance works is  
22 because it's running parallel to the contours. So I  
23 mean, like, when you see, gosh, like a -- like  
24 a -- "dugway" is -- is a term they use.

25 When you -- when you're going up the

1 side of a hill, you try to go parallel to the slope,  
2 not perpendicular. When you go perpendicular,  
3 then -- then it requires big excavation or big fill,  
4 while parallel kind of minimizes -- you know, you cut  
5 one side, fill the other.

6 And so, you know, the -- the architect  
7 had -- had probably come up with 50 different options.  
8 And really, the only one that really makes sense from  
9 a -- from a -- well, the one that makes the most sense  
10 from an engineering standpoint is -- is Option C.

11 But as part of the -- you know, I  
12 wanted to go back to some of this -- what -- what  
13 Niall's put here. You've got on this second page  
14 where it talks about the ordinance background,  
15 there -- there's A, B, C, and D.

16 And so, it -- it -- you know, based on,  
17 you know, my work with the -- the architect, we feel  
18 like all of those -- those four elements are best  
19 served with Option C in the sense of, you know,  
20 it -- you're trying to conserve the value of the  
21 properties near the grading activities.

22 There's two lots that are across the  
23 road. And so if -- if you're -- I was the owner of  
24 the lots across the road, there'd be less visual  
25 impact with Option C than A or B because they're

1 disturbing less, just the area is less --

2 MR. PATTISON: Just total ground  
3 disturbance --

4 MR. BATES: Ground disturbance. So  
5 what's tough is you've got creosote and other  
6 vegetation that takes a long time to -- to grow  
7 and -- and kind of -- well, not creosote. You've got  
8 juniper and other small shrubs. You knock those out,  
9 then they're going to be -- take, gosh, 50 years to  
10 grow back to -- to a similar spot.

11 And then also by being further up here  
12 the visual impact is further away from the lots that  
13 are below. So you -- you -- you're less likely to see  
14 the impact.

15 MR. PATTISON: So what they would see  
16 on these options would be more of --

17 MR. BATES: All of this -- all of this  
18 driveway, yeah, and then -- and then same thing on  
19 this one here. They're going to see -- basically  
20 the -- the driveway basically touches two spots on the  
21 existing road while the variance is just one.

22 I -- I think what you'd look at  
23 is -- so that -- that's why I say C seems like  
24 it -- it provides the best visual -- least visual  
25 impact than the other options. For C, you know, it

1 enhances the value of the new development.

2           Again, I think part of this too  
3 is -- is the -- the owner would like to keep this as  
4 natural looking as possible. Providing Option C  
5 allows us to do it with a -- with a grade that's less  
6 than 10 percent, that would not require paving the  
7 road.

8           A and B require pavement, and so  
9 that -- that means, you know, you're going to see the  
10 pavement.

11           MR. PATTISON: When you say "paving the  
12 road," you're talking about the proposed --

13           MR. BATES: Yeah -- yeah. We would  
14 need asphalt in the driveway. If we do C, we can keep  
15 it as -- as the roadway. We want to, you know, try  
16 to -- to match that -- the color.

17           MR. PATTISON: Okay. I think  
18 I -- I -- you can go back now --

19           MR. BATES: Okay --

20           MR. PATTISON: I think I've got the lay  
21 of the land here.

22           MR. BATES: Sorry. It's complex, as  
23 you can see.

24           MR. PATTISON: When engineers show up,  
25 it's always complex; right? Okay. So continue,

1 I -- with -- with -- I -- I'll have some questions  
2 about each of these elements, but -- oh, please go  
3 ahead and continue telling me what you were telling me  
4 on -- you were referring to the -- the Town's  
5 memorandum and the --

6 MR. BATES: Yes, sorry, on -- on the  
7 second page --

8 MR. PATTISON: -- purpose of the  
9 ordinance?

10 MR. BATES: Right. And so what we  
11 first talked about there was -- was going through D,  
12 you know, which is, you know, the -- the visual  
13 impacts. C is very similar. You know, the -- the  
14 property owner would like to reduce impacts to -- to  
15 other neighbors and -- and themselves and keep the  
16 area as natural as possible.

17 That -- that's pretty straightforward.  
18 B is sort of more to conserve the visual character of  
19 grading sites and settings, you know, along the same  
20 lines.

21 A is interesting because if you look at  
22 C, which is the variance option, it -- it has  
23 the -- the shortest retaining walls, the shortest  
24 elevation change -- the smallest elevation changes in  
25 the road -- sorry, finished grade versus existing

1 grade.

2 Options A and B have much more. You  
3 can see they've got, you know, 8, 9-foot walls, you  
4 know, as high as we can possibly make them. Those are  
5 required, again, because you're going from the  
6 elevation of the cul-de-sac going back down towards  
7 existing road which is lower, then having to jump back  
8 up to a higher elevation.

9 And so from -- from an engineering  
10 perspective, I feel like the disturbance within the 30  
11 percent ground actually is less disturbance and safer  
12 than, you know, some taller walls. And so you -- so  
13 the walls are -- are shorter.

14 And then one thing that the architect  
15 really wanted to point out was the -- the cut and fill  
16 or the -- the amount of grading on Option C versus A  
17 and B. C is significantly less than A and B. So same  
18 thing -- the amount of earth disturbed is --

19 MR. PATTISON: So Option C is -- is the  
20 best option, save for the fact that it goes across the  
21 30 percent slope?

22 MR. BATES: Sure. And -- and I  
23 think -- I mean, just my professional opinion,  
24 the -- the number "30 percent," it's somewhat  
25 arbitrary in the sense -- you know, is 31 percent any

1 worse than 27 percent as far as disturbing?

2 Inherently, no.

3                   So I -- I understand 30 is kind of the  
4 point that's used. But in this case where  
5 it's -- it's an outcropping of 30 percent, you've got  
6 lower slopes on both sides, it's kind of just a  
7 passthrough that, you know -- you know, we do walls,  
8 and we do work all the time.

9                   MR. PATTISON: So if we look  
10 at -- could we could we pull up that -- Option C? Is  
11 there anything on these that -- that shows the amount  
12 of --

13                   MR. BATES: Yes --

14                   MR. PATTISON: -- of 30 percent slope?

15                   MR. BATES: Yeah. If you look,  
16 it's -- it's -- go to -- scroll up, please.  
17 Next -- next figure. Go one more. Okay. Right here.

18                   If you look, Bryan, you see that -- the  
19 hatched area where you've got the crosshatch there?  
20 That's the 30 percent we're talking about. So  
21 it's -- it's strictly -- it -- it -- again, it kind of  
22 shoots out towards existing road there. And  
23 it -- it's not there further south or north. It's  
24 just that one spot.

25                   And so to avoid it, I've got to bring

1 that road -- you know, based on the contours, that's  
2 10, 15 feet lower and then go back up.

3 Just for reference, we met with the  
4 fire marshal, and he actually preferred this -- Option  
5 C for -- from a safety standpoint because --

6 MR. PATTISON: Let -- let me ask this  
7 because I -- I think -- as far as the last two  
8 elements, I -- I think 4 and 5 are met based on what  
9 you've said, based on the amount of disturbance of  
10 the -- of the other options --

11 MR. BATES: I see --

12 MR. PATTISON: -- where -- where what  
13 I'm looking at is is basically Number 1, the  
14 unreasonable hardship.

15 Help me understand that because in the  
16 application -- in the narrative that was given,  
17 it -- it's almost like the applicant is conceding that  
18 there's not an unreasonable hardship.

19 I mean, the -- the first thing that it  
20 says is "It is not an unreasonable hardship to our  
21 client's project in terms of" -- "of costs," and then  
22 the next paragraph "the unreasonable hardship (if one  
23 exists)."

24 So I'm trying to get -- get a sense of  
25 what -- if -- if the variance is not granted, what the

1 hardship is given that there's two other options even  
2 though they're -- they're not as good of an option as  
3 as the third one. How do I -- how do I find that  
4 there's an unreasonable hardship? That's what I'm  
5 struggling with.

6 MR. BATES: Okay. No, I understand.  
7 I -- I think the way I -- maybe I would describe  
8 it -- it as being -- the hardship is just basically I  
9 would say the reduced safety that -- that happens with  
10 Options A and B versus C.

11 That would mean you've got higher  
12 walls, you've got a scenario where you've got steeper  
13 slopes. So, you know, in a -- gosh, in a -- in a big  
14 storm event or you've got some sort of a rockfall,  
15 those two are -- you -- you're putting the road in  
16 a -- in a less safe condition than what C would bring.

17 So, in my mind, I -- that's the  
18 hardship, saying it's -- you're -- you're requiring  
19 the -- the owner to -- to make a -- a less safe road  
20 than -- you know, and -- and from fire as well  
21 too -- than what we can do reasonably with this  
22 exception.

23 MR. PATTISON: Do -- do the other two  
24 options -- are they fire-code compliant?

25 MR. BATES: They are.

1 MR. PATTISON: So the issue just comes  
2 down to engineering, and potentially the -- the third  
3 option is -- is safer and disturbs less ground?

4 MR. BATES: And the fire marshal  
5 mentioned that -- that it allows them to fight the  
6 fire better as -- as far as it gives -- gives them  
7 more -- more places to fight the fire if there was one  
8 on that house versus the other two.

9 MR. PATTISON: Because the -- the road  
10 is closer?

11 MR. BATES: The road is closer. Yeah.

12 MR. PATTISON: Understood.

13 MR. BATES: I mean, the -- the fire  
14 code and what they can do, it's somewhat -- it's  
15 somewhat subjective.

16 But, you know, when -- when we showed  
17 him these options -- because we wanted to go, you  
18 know, independent of the variance -- it was just,  
19 "Hey, we want to make sure we're providing access."  
20 He said immediately, "Option C," was -- was -- he felt  
21 was the safest option.

22 MR. PATTISON: Okay. Anything else on  
23 hardship?

24 MR. BATES: Again, I -- I think part of  
25 the -- the concern here is -- is because this is an

1 existing development, where the road is at is where I  
2 would probably -- I wouldn't have put it because  
3 you've got 500 CFS going through that wash there.

4 It's not the -- it's probably the  
5 easiest place to build it but not the best place to  
6 build it. And so because you're stuck with the road  
7 that's there in a place that probably isn't the best  
8 place, he's working with -- with a -- a bad condition  
9 to start out.

10 MR. PATTISON: When you say "the road,"  
11 you're talking about --

12 MR. BATES: -- the -- the main road --

13 MR. PATTISON: -- the existing road?

14 MR. BATES: Right. The place that he's  
15 got to start from. It's -- it's in the -- the bottom  
16 of the wash. So in a -- in a large flood -- in  
17 a -- in a 100-year flood event, you've got 500 CFS  
18 running through there. The -- the road potentially  
19 overtops.

20 MR. PATTISON: Do you know when that  
21 road was constructed?

22 MR. BATES: It would have been like  
23 early 2000s, maybe '5 or '6, '9, something like that.

24 MR. CONNOLLY: I believe it was just  
25 the early 2000s, yeah.

1 MR. BATES: Yeah.

2 MR. PATTISON: Are there other lots? I  
3 mean, we've got -- we've got --

4 MR. BATES: I --

5 MR. PATTISON: -- I think I see 8.  
6 This was also a request for a variance on 11, but I  
7 don't see where Lot --

8 MR. BATES: Well --

9 MR. PATTISON: Oh, there's 11.

10 MR. BATES: Eleven isn't  
11 necessarily -- I mean, 11 will -- will use that  
12 cul-de-sac, but I don't think it's -- 11 is -- is  
13 specifically impacted by the driveway for 8.

14 I mean, it might impact where  
15 the -- where the fire hydrant would go or something  
16 like that, but I don't think 11 is probably -- I mean,  
17 the -- we're changing -- sorry. We're adjusting the  
18 lot line, so the lot -- the access goes through Lot 11  
19 to get to 8.

20 MR. PATTISON: And Mr. Burnette owns  
21 both those lots?

22 MR. BATES: Sean Haniker [ph] is -- is  
23 the -- Mr. Burnette's architect.

24 MR. PATTISON: Oh. Okay.

25 MR. BATES: Yeah, he actually owns all

1 the lots in the subdivision.

2 MR. PATTISON: Do any other the other  
3 lots in the subdivision have -- have the same access  
4 issue?

5 MR. BATES: No, but -- but what you're  
6 looking at is when the -- when the plot was recorded,  
7 there were -- there were pods that were established  
8 where the -- the developer intended the development to  
9 happen. And again, if you look at those pods, they're  
10 down there at the bottom of the -- the ravine.

11 So those are the ones that are  
12 most -- most subject to erosion and flooding. And so  
13 if we were to do the -- Lots, you know, 9 and 10 that  
14 are across the road, then we would be doing a similar  
15 condition there too because it's -- it's just not  
16 the -- again, I wouldn't recommend putting those lots  
17 there. Even though they're maybe the easiest to  
18 develop, they're not the -- the safest.

19 MR. PATTISON: So is -- and I guess  
20 we'll see when we go out there, but is -- is -- a  
21 subdivision was started but -- but -- and platted, but  
22 never nothing was ever built.

23 MR. BATES: No, the subdivision was  
24 complete with -- with the utilities, but -- but there  
25 weren't any houses --

1                   MR. PATTISON: Yeah, that -- that was  
2 what I was asking.

3                   MR. BATES: Yeah -- yeah.

4                   MR. PATTISON: There's no structures  
5 there?

6                   MR. BATES: There's an existing  
7 structure where we have the -- the Lot A guest house.  
8 There's, like, a -- some footings and some -- there's  
9 some improvements, and some grading was there.

10                   And I don't know if that person, you  
11 know, went out of business or ran out of money.  
12 That -- that's all within like the 2005, 2010  
13 timeframe. So nothing's happened out there for 15  
14 years.

15                   MR. PATTISON: Mr. -- well, is there  
16 anything else you wanted to add?

17                   MR. BATES: Just basically, I -- I  
18 mean, I -- I think part of -- one -- one challenge  
19 with the code the City has is -- is it allows for  
20 concessions for a 30 percent slope in other  
21 conditions, say, for building a house or for  
22 structures, but it specifically says not for an access  
23 road.

24                   And I don't -- I don't understand why  
25 that would be inherently different than a building as

1 far as access through the 30 percent zone.

2 So it seems like an arbitrary reason  
3 not to allow it, or it doesn't seem like  
4 a -- a -- from an engineering standpoint or a planning  
5 standpoint, I wouldn't see why that -- that reason is  
6 specifically inherently different from -- from  
7 building.

8 So meaning, like, I could build within  
9 the 30 percent zone with -- with some concessions.  
10 I -- it says specifically that I can't build a road.  
11 So I don't that doesn't make sense to me.

12 MR. PATTISON: A road or a driveway,  
13 you can't --

14 MR. BATES: Yeah.

15 MR. PATTISON: I see what you're  
16 saying. Okay.

17 Mr. Connolly, does the Town have a  
18 position on the application?

19 MR. CONNOLLY: So we've been working  
20 with the -- the applicant on pre-application design  
21 for -- for some time, and they've provided different  
22 options.

23 Obviously, this was their preferred  
24 option, and we identified a -- a conflict with the  
25 code and -- and explained that this -- that the

1 variance process is what they would need to go through  
2 if -- if they wanted to proceed with that.

3 As far as kind of stating a preference  
4 between different options, I -- I don't think the Town  
5 has -- has a position. I think it's -- our -- our  
6 position is that we want to go through the process and  
7 make sure that -- that the code is complied with and  
8 that -- that the -- yeah, the process is followed  
9 correctly.

10 MR. PATTISON: So if -- if the variance  
11 was denied and they went with one of these other two  
12 options, would a variance be needed at some point  
13 in -- in that process? Do either of you know?

14 MR. BATES: I'm sorry --

15 MR. PATTISON: I mean, given the amount  
16 of disturbance and everything else, if you couldn't do  
17 Option 3 -- or Option C, would -- would you need to  
18 come back for a variance to pursue either of the other  
19 two options, 1 [sic] or 2 [sic]?

20 MR. CONNOLLY: My understanding is that  
21 there wouldn't be another variance required.

22 MR. BATES: I don't think so. I know  
23 that Option C was -- was more developed from a design  
24 standpoint than A and B. I know that -- that B is  
25 iffy. It's close because -- because -- with the 15

1 percent rule with the -- with the fire department.  
2 So, you know, I -- I don't want to say no.

3 I mean, I think I -- I -- to this  
4 point, no, but that doesn't mean that we might find  
5 something when we get into final design that might  
6 come up that could throw us off.

7 MR. PATTISON: You don't -- you don't  
8 know till you pursue it. And I'll just -- cards on  
9 the table, it sounds like C is overall the best option  
10 for many reasons.

11 It's just whether we can -- whether I  
12 can get to the -- the point of it being an  
13 "unreasonable hardship" as -- as the law defines it.  
14 So anything else to add, Mr. Bates, as to -- as to  
15 that issue?

16 MR. BATES: Maybe. Sorry, I'm not an  
17 attorney. Explain --

18 MR. PATTISON: Sure --

19 MR. BATES: -- explain "unreasonable  
20 hardship"? How would you define that?

21 MR. PATTISON: An "unreasonable  
22 hardship" is -- is -- can't be self-imposed, and it  
23 can't be purely economic. So there's a discussion  
24 here about -- about cost, but cost can't be an  
25 unreasonable hardship.

1                   So typically when I -- when I find an  
2 unreasonable hardship or what we see in the law is  
3 if -- if you can't build this driveway in a certain  
4 location, then there's no other place to put it, and  
5 therefore you can't construct a house. I mean  
6 it -- it almost prohibits development of the  
7 property -- would be the the example I would use.

8                   So where we've got two other options,  
9 I'm trying to work through that in my mind as far  
10 as -- as what the -- what the hardship would be --

11                   MR. BATES: Yeah --

12                   MR. PATTISON: -- and that's kind of  
13 where I'm stuck.

14                   MR. BATES: Yeah. I mean --

15                   MR. PATTISON: I -- I want to give you  
16 the chance to talk -- to address it because that's  
17 the --

18                   MR. BATES: Right. I'm trying the  
19 best --

20                   MR. PATTISON: -- that's the issue --

21                   MR. BATES: -- I can. I mean,  
22 it's -- I -- I think our presentation is mainly  
23 the -- the spirit of what the code is. C obviously  
24 tries -- tries to match that better than the other two  
25 options.

1           And so if -- if -- I -- I feel like the  
2 code is -- is lacking in -- in this particular -- in  
3 this particular situation.

4           Yeah, I guess that'll have a good  
5 answer for you. I -- I could maybe look at it  
6 and -- and see if I can come up with something better.  
7 Again, I -- I think we're -- we're -- you know,  
8 what -- what's best for the -- the homeowner and  
9 everybody is Option C.

10           Now, if -- if we're hung up by the  
11 code, then I don't know what else to say because  
12 the -- the code should -- should help development and  
13 should provide the best option for the City and  
14 the -- the -- and for the public. And -- and in this  
15 case, it's not.

16           MR. PATTISON: I -- I understand the  
17 argument, and maybe I'm -- I'm interpreting it more  
18 strictly than --

19           MR. BATES: Sure --

20           MR. PATTISON: -- than it should, and  
21 I'm -- I mean, I -- it was my intention today to take  
22 it under advisement. And now that it's been explained  
23 to me to kind of look -- look further into it before  
24 making a decision. But so you know, that's -- that's  
25 kind of where I'm at -- and -- and so the Town knows

1 as well.

2 MR. BATES: Bryan, do I have an option  
3 to -- to maybe provide an -- an addendum or some  
4 additional information to try to prove that point?

5 MR. PATTISON: Sure. I mean, I --

6 MR. BATES: Maybe get with -- with my  
7 architect or --

8 MR. PATTISON: Yeah --

9 MR. BATES: -- or try to maybe  
10 formulate a -- a better response? Like I said, I'm  
11 kind of responding on the fly.

12 MR. PATTISON: No, I'm -- I'm -- I am  
13 open to that. Unless -- unless you have more for me  
14 right now or unless the -- the Town has more, I -- I  
15 think I'll take it under advisement. I would like to  
16 do a -- a site view. It was my intention to do it  
17 before today.

18 But I think if we end and then go -- go  
19 out there -- I don't know if you want to -- wanted to  
20 come, Mr. Connolly, as a representative of the Town?  
21 I -- I don't intend to -- to do anything other  
22 than --

23 MR. CONNOLLY: I'm available if -- if  
24 you'd like me to go. I'm --

25 MR. PATTISON: Yeah. I -- I'd be more

1 comfortable if there was a -- a representative of the  
2 Town since there's going to be a representative of the  
3 applicant --

4 MR. CONNOLLY: Sure. Yeah, I can be  
5 there --

6 MR. PATTISON: -- just so the Town  
7 knows what -- what is -- what is said and represented  
8 while we're -- while we're out there since our court  
9 reporter can't travel. And then -- and then I'll take  
10 it under advisement.

11 And if -- Mr. Bates, if I gave you an  
12 additional 14 days from today to submit to the Town  
13 any additional information now --

14 MR. BATES: That's reasonable, yeah --

15 MR. PATTISON: -- that you know kind of  
16 what the issue I'm focused on --

17 Is the Town okay with that?

18 MR. CONNOLLY: I -- yes, I -- I think  
19 that's fine. Yeah.

20 MR. PATTISON: Okay. I-- I wasn't  
21 aware of anything in our ordinance that precluded it.

22 MR. BATES: I think that's totally  
23 reasonable.

24 MR. PATTISON: And whether you submit  
25 it or not, if -- if it turns out you don't need to,

1 at -- at 14 days I'll just either take what you  
2 submit --

3 MR. BATES: Sure --

4 MR. PATTISON: -- or -- or don't submit  
5 and then draft my decision from there.

6 MR. BATES: That's -- that's totally  
7 reasonable.

8 MR. PATTISON: Okay. All right. Thank  
9 you.

10 With that, unless there's anything else  
11 from either party, we'll conclude the hearing. Thank  
12 you.

13 MS. ROMERO: Thanks, Leilani.

14 THE REPORTER: Yeah.

15 The time is 10:30 a.m. We're off the  
16 record.

17 (Whereupon, at 10:30 a.m., the  
18 proceeding was concluded.)

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CERTIFICATE

I, LEILANI DANNER, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



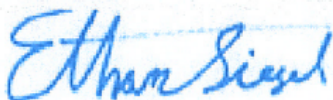
LEILANI DANNER

Notary Public in and for the  
State of Utah

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CERTIFICATE OF TRANSCRIBER

I, ETHAN SIEGEL, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



ETHAN SIEGEL

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[b - concessions]

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[conclude - engineering]

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[engineering - happened]

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