

Code Amendment Application

Applicant: Millhaven Development

Property: Bennett property, Elk Ridge (CE-3 Critical Environmental Zone)

1. Code Section(s) Requested to be Amended

- **§10-9C-16-8 — Side Setback** (Ord. 22-07, 11-8-2022)
 - **§10-9C-16-10 — Lot Requirement Table**, side setback entry (conforming amendment, so the two sections continue to agree)
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2. Specific Proposed Language

§10-9C-16-8: SIDE SETBACK:

All dwellings and other main buildings, including any attached garage or similar structure, shall have side setbacks of ~~one hundred feet (100')~~ **fifty feet (50')** or greater from any side property line, subject to the following:

(A) Terrain-based reduction. A side setback may be reduced to not less than thirty feet (30') from a side property line where terrain, slope, or site conditions warrant, as approved by the City Development Review Committee and subject to subsections (B) and (C).

(B) Minimum separation between building envelopes. In no case shall a reduction under subsection (A) result in less than one hundred feet (100') between the building envelope on one lot and the building envelope on any adjoining lot. Where a side setback on one lot is reduced below fifty feet (50'), the side setback on the directly adjoining lot along the shared property line shall be increased by an equal amount, so that the combined side setbacks across the shared property line total not less than one hundred feet (100').

(C) Established at plat; shown on recorded plat. Any reduced side setback under this section, and the corresponding increased setback on the adjoining lot required to maintain the one hundred foot (100') separation, shall be shown as building setback lines for each affected lot on the recorded plat.

§10-9C-16-10: LOT REQUIREMENT TABLE: change the side setback entry from **100 feet** to **50 feet**. All other entries unchanged.

3. Why We're Requesting the Amendment

We're bringing this forward because we believe there may be a small oversight in the CE-3 Critical Environmental zone.

The CE-3 zone sets a minimum lot frontage of 120 feet (§10-9C-16-6(A)) and a side setback of 100 feet from each side property line (§10-9C-16-8). On a lot platted at the zone's own minimum frontage, those two standards work out to:

120 feet of frontage – 100 feet – 100 feet = **negative 80 feet** of buildable width.

At the same time, §10-9C-16-4 requires a minimum building envelope of 4,000 square feet, and §10-9C-16-19 requires all buildings to sit within it. As written, the code asks for a 4,000 square foot envelope on a lot where the setbacks leave no width at all. In practice, a CE-3 lot has to be roughly 260 feet wide before it can hold two 100-foot setbacks and a minimum envelope — more than double the frontage the ordinance calls for.

We don't think that outcome was intended, and we'd like to help the City resolve it.

The 50-foot standard is already Elk Ridge's own. The CE-2 zone is the City's other critical environmental zone, and its legislative intent at §10-9B-1(A) names steep slopes, unstable soils, and wildfire hazards — the same concerns behind CE-3. CE-2 requires five-acre lots and sets side setbacks at **50 feet** (§10-9B-6(A)(2)). We're not proposing a new standard; we're asking that CE-3 use the one the City already applies next door.

Fire protection is fully preserved. A 50-foot side setback doesn't put homes 50 feet apart. Because it applies to both adjoining lots, it produces **100 feet between adjacent structures** — each owner contributing 50 feet from the shared line. That 100 feet is exactly what the Utah Wildland-Urban Interface Code prescribes at the Extreme hazard classification (Table 603.2: 30 feet at Moderate, 50 at High, 100 at Extreme). The current standard delivers 200 feet, or twice the WUI distance at the highest hazard class the code recognizes.

It also restores an option the City wrote on purpose. Section 10-9C-16-3 offers 60,000 square foot lots in exchange for 40% public open space, trails, trailheads, trailhead parking, and Fire Chief approval that clustering places homes in lower fire risk areas. Under the current setback, a 60,000 square foot lot is very difficult to make work with the current setback and buildable area requirements — a theoretical envelope would disappear once the slope and sensitive-area exclusions in §10-9C-16-4 and §10-9C-16-5 are applied with the setbacks. The result is that the City doesn't receive the open space and trails it bargained for, because the option can't be used. A 50-foot setback makes it workable again.

In short: the amendment brings CE-3 into line with CE-2, keeps 100 feet between homes as the WUI Code requires, makes the City's own clustering incentive usable, and lets CE-3 land be developed reasonably — without giving up any fire protection.

We've kept this request narrow and limited it to the side setback. The same mirrored-separation logic applies to the 100-foot rear setback (§10-9C-16-9), and the 120-foot frontage minimum (§10-9C-16-6(A)) and may deserve a look as well. We didn't include them here, but we'd welcome that conversation if the Commission/Council thinks a broader cleanup of the code would be worthwhile.

We appreciate the Commission's and Council's time, and we're happy to answer questions or walk through any of this in person.

Respectfully submitted,

Millhaven Development