



BOARD OF ADJUSTMENT

MEETING AGENDA Thursday, June 18, 2015 4:30 p.m.

**Pledge of Allegiance*

Regular Agenda Items

1. Minutes Approval of the March 26, 2015 meeting minutes
2. BOA 2015-02 Consideration and action on a variance request to the required stream corridor setbacks to a stream (50 feet) to build a barn. Property is within the Forest Valley-3 (FV-3) Zone, located at 1958 N 3850 E (Weston Loegering, Applicant)
3. BOA 2015-03 Consideration and action on a variance request of 3 feet to the required 10 foot side yard setback for a dwelling. Property is within the Agricultural Valley-3 (AV-3) Zone, located at 3319 North Highway 162 (Zane Froerer representing Darold and Carol Harris)
4. BOA 2015-04 Consideration and action on a variance request for lot area, lot width, and setbacks for two historic parcels with a boundary adjustment. Property is within the Forest Residential-1 (FR-1) Zone, located at 398 Ogden Canyon and 400 Ogden Canyon (Paul Fifield and Andrew Deckman, Applicants)
5. Discussion Board of Adjustment Rules of Procedure
6. Adjournment

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



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

Minutes of the Board of Adjustment Meeting held March 26, 2015 in the Weber County Commission Chambers, 1st Floor, 2380 Washington Blvd, commencing at 4:30 P.M.

Present: Deone Ehlers-Rhorer, Chair; Rex Mumford, Doug Dickson, Celeste Canning

Absent: Phil Hancock,

Staff Present: Jim Gentry, Principal Planner; Ben Hatfield, Planner; Brett Peterson, Legal Counsel; Kary Serrano, Secretary

****Pledge of Allegiance***

Regular Agenda Items

Chair Ehlers-Rhorer introduced Brett Peterson, the new attorney for the Board of Adjustment.

1. Minutes: Approval of the August 28, 2014 meeting minutes

MOTION: Celeste Canning moved to approve the August 28, 2014 meeting minutes as written. Doug Dickson seconded the motion. A vote was taken and Chair Ehlers-Rhorer indicated the minutes were approved with all members present voting aye. Motion Carried (4-0).

2. BOA 2014-01: Consideration and action on a variance request for a variance for a series of lots whose deeds do not match the occupied land and fences. The variance would include lot areas, width, and setbacks to structures. Property is located in the Forest-5 (F-5) Zone at approximately 148 N 10630 E, Huntsville UT (Ron Hanson, Applicant)

Ben Hatfield indicated that there is an application from Ron Hansen on a property that is in Southfork area of the county. He referenced a map of Hwy 39 that leads up to Southfork and up to Causey and other properties to the east. Just before the mouth there is a campground owned by the Federation of Eagles. There is a private road that comes back along the north side of these lots that is being discussed. There is also a second private road in the back that serves some lots to the south side of the river but they are not part of the discussion. The applicant is requesting a variance two lot width in the FV-3 Zone as well as potential lot area and yard setback requirements for a series of lots. The county records go back for this area to 1966. Those lots were created by a series of deeds that were created and separated out between the years of 1954 to 1956. It has now been discovered that there was an error in one of the calls.

Ben Hatfield said that Ernest Rowley, a private surveyor is here to explain how that occurred and the difference between what are now occupied land owners and what was deeded back in the 1950's. To explain the difference; there is a rock wall and a series of lots that have been occupied as well as the campground. There is a series of deeds, and by coming to an agreement with the campground, there would be a difference of lot width, potentially lot area, and potentially any setbacks to that lot. They have discovered that there is a difference in the series of deeds, this same scenario could potentially happen to mitigate those lots. Some of the other lots have had potential issues with fence lines in that location. It is recommended by staff, as a condition of this approval, that a subdivision plat be filed and recorded to reference any current occupation of property lines and structures, so that the variance could be documented for future reference. The properties are owned by related family members, but as the years go on it may be that more distantly related people may own those lands, and to clear up any title issues, it would be best to have that documented at this time.

Celeste Canning asked to her understanding, the applicant is requesting the variance now, to document the entire subdivision; is staff expecting him to clear up the other discrepancies that appear on this survey plat, and how are they going to describe this lots and boundaries? Mr. Hatfield replied as part of the same subdivision and the boundaries as what have been traditionally occupied.

Celeste Canning asked if staff will be getting agreements from the other lot owners, and what happens if one lot owner says no? What happens to the person requesting this variance if one lot owner says no; is staff going to deny the variance? Is staff asking this board to put a condition so that if one lot owner says no, this applicant doesn't get the relief he is seeking today? Director Wilkinson replied that he believed there are agreements in place, or there were some conversations, and there is at least a verbal agreement in place that everyone will participate. The County Land Use Code says that granting a variance to the appeal authority may impose additional requirements to the applicant, that will serve

the purpose of the standard or requirement that is waived or modified, and this board does have the ability to require something like that at their discretion.

Rex Mumford asked Mr. Hatfield if he could identify where the existing fence lines are, and if there was an actual fence or wall. Mr. Hatfield replied that he assumed that not all properties had a fence, and the surveyor could actually explain those questions.

Doug Dickson asked if all of the parties involved as well as the adjacent property owners are in agreement with this. Mr. Hatfield replied that it was their understanding that they would and they have an agreement to the camp ground and all of the series of lot owners would participate in the subdivision.

Rex Mumford asked which lot the building is on. Mr. Hatfield replied that it is the third to the last one. At the end of the packet, two pages were submitted that showed the difference between deeded location and occupation.

Ron Hansen, 8738 E 300 N, applicant, said that they thought they were buying Lot 007; the legal description they got is for Lot 6, but the neighbors who are here actually own Lot 6, Lot 7 as a matter of title in the Eagles Campground for 60 or 70 years, but it has been occupied all that time, and there is a cabin on there now. That diagonal line in the fence has always been there, separating the Eagles Campground from this lot, and the problem is that every one of those legal descriptions is about 100 feet off. At some time in the past, somebody missed it by 100 feet, so everybody owns the lot next to them, and Ernest Rowley could talk more about this. First American Title hired Mr. Rowley to fix this, and the plan is to have everybody's lot line be their existing fence line.

Celeste Canning asked if the other property owners agreed to that, and is he comfortable with the condition of correcting his property line description, and that he gets the agreement with the other lot owners. Mr. Hansen replied that that as far as he knows, Mr. Rowley has talked to them. He is not comfortable but it needs to be done, and they reached an agreement with the Eagles, and they have agreed that fence line could be their property line and have it adjusted back and forth. He thinks everyone will agree because their titles are so fouled up now.

Rex Mumford said that he noticed the fence line between Lot 7 and Lot 8; are there similar fence lines between each of the lots, and are those fence lines spaced approximately 100 feet apart? Mr. Hansen replied yes and that is approximate.

Ernest Rowley, 4646 S 3500 W, Landmark Surveying, said that after the properties are adjusted to the west, so that all of those parcels are sitting on top of their properties, most of those fence lines fall right on the property line, that have been originally deeded to them. The only one that doesn't is with Mr. Hansen and the Eagles, and that's the one that is diagonal, and is the only one that is in bad condition. Mrs. Canning said that she wanted to change the verb from comfortable to confident, and if he was confident that everyone would sign the agreement on this. Mr. Rowley replied that he didn't know why not; he had conversations with many of them and they are here and can speak for themselves in that regard.

Ernest Rowley said that if none of them decided to enter into an agreement to correct this, Mr. Hansen still could do this because his property is east of where it belongs and would be moving west, not touching any of the other properties except the Eagles. The signed agreement between Mr. Hansen and the Eagles is the one that could actually take place here and do a single lot subdivision that would not serve the benefit of everybody in the neighborhood because Mr. Hansen would still have a deed for the Yorky's home. That just ripples down the group of homes and that is why they all have a mind to do that.

Director Wilkinson said that is something they have done with two other subdivisions with the same exact circumstances in the county. That is the precedent that they have established; however, that is not in the code and they cannot absolutely require that to happen. These are nonconforming lots that currently exist and as long as they are not being made smaller or changing, they can stay the way they are without a subdivision; but they would much prefer and recommend that a subdivision takes place.

Ben Hatfield said that the home as illustrated that is now on Lot 7 does not match the deed that Mr. Hansen holds on Lot 6. What is being requested is that they shift it further to the left so the homes do land on that. In response to questions about zoning; if one person moves and if the footprint isn't exactly on the plot line, there could be potential issues as far

as width area or setbacks to their homes. That is why the request is the way it is for the flexibility of the other neighbors so they don't have zoning issues. Director Wilkinson said that they would rather address all of those issues with this variance request, than have each property owner with their own variance and have to come in seven times.

Ben Hatfield reviewed staff's analysis and findings items a through e, and with that, staff recommends approval for this series of lots of differences which may occur when subdividing regarding a reduction to the lot width, area, or setbacks so that traditional locations are honored.

Doug Dickson asked staff to clarify the Eagles Lots; are all of these properties located within or against their property on this entire site, as well as the ones across the river. If the lot lines get shifted, will it be in relationship so that each property owner can still retain as much land as their deed shows, and any variance will be adjusted out of the Eagles property? Mr. Hatfield replied that the Eagles property does not completely surround this subdivision; the Eagles is merely to the west and to the north of this property.

Celeste Canning said that the ultimate loser on this property on paper would be the Eagles. Mr. Hatfield replied that nobody would be the loser because they would make up on the east side as the last lot shifted. Mrs. Canning said so everybody ends up with the same amount of acreage that they thought they had, it's just located in a slightly different place than their deed would indicate. Mr. Hatfield replied that is correct.

Chair Ehlers-Rhorer opened the meeting for public comment.

Rick Bjerke, 1252 East 2650 North in North Ogden, said that he owned two of the lots that being discussed today. As far as the tax code, he owns Lot 4 and Lot 5. Based on the drawing, Mr. Hansen is asking for Lot 6, but according to the surveyor, his property would take our property to the east, which has the cabin on it, and this would domino down the way. Basically for most of us, the only thing they are doing here is asking for the variance to his lot, because he can't get a loan unless he gets an accurate description, and all of the descriptions as far as the county is concerned are wrong where the pieces of ground actually exist. To his understanding, they won't lose any of the property that they actually own, it will continue to be where it is. The surveyor will then come in and survey it, so that the description will be the same to where their lot is actually located and there shouldn't be any change to what they have. Mrs. Canning asked so other than any minor disagreement about exactly whether the lot line should be two inches this way or that; you're in agreement with this plan, and in principle willing to sign off in subdivision? Mr. Bjerke replied yes, and in general there are fences or partial fences that establish the lot lines and have been there forever.

David Swanke, 899 East 760 North in Ogden, Chairman for the Board for the Fraternal Eagles, said he was the spokesman for the club. Ernest Rowley gave a presentation at one of their board meetings, and they are in concurrence with Mr. Rowley the way this falls. This has been for over 50 years, and this should correct that, and put everybody in line where they should be. The question about the diagonal fence that is going to separate them from Mr. Hansen's property, they are happy right where it is; there won't be any relocation, and this will define everything where it should be.

John Robins, 10630 East Hwy 39 in Huntsville, said that he owns Lot #2 and they don't have any argument with what is being proposed, as long as they don't lose any ground, that everything stays as it is, and that this is simply a procedure where they can make the plat correspond with the property lines.

Larry Shulsen, 10274 South 1480 W in South Jordan, said that he represents Lot #1, his wife's family own that lot, and they are in agreement with what Mr. Robin and Mr. Bjerke.

Ron Hansen indicated that what happens is that everyone shifts over one lot, so the Bjerke's are back to Lot 6, and the Eagles will give us a quick claim to this and that is how they get the title from them, and hopefully that takes care of all the problems.

Ben Hatfield said that he had one more topic. The road that they have been driving on to their lots, he believed is the right-of-way shown by deed of record. It would be nice to clean that up so the area that they are driving on is actually where the right-of-way exits. That is one reasons a plat would be helpful and that also affects a few of the frontages. There is a wedge piece that was taken out of Lot 1 that will also have to cleared up and cleaned up.

Rex Mumford said that right-of-ways are not a board of variance issues; that is just a matter of getting a right-of-way from the various property owners, and platting accordingly, and this is just to make us aware of that. Does this variance change the frontage of any of these lots? Mr Hatfield replied said that he hadn't walked through each of these properties and does not have the equipment to verify that. The applicant is requesting some flexibility in case there is a difference, but generally they want to honor what was there traditionally.

Celeste Canning asked if all of these lots have been surveyed or has the survey been limited to the two that have the written agreement? Ernest Rowley said that the surveys that had been done, have located the fences for those properties that they're talking about in this area. He wanted to address the easement issue that was previously brought up as far as the property they were looking at. In that corner, the reason that the lines run south and then west, is because the rectangle piece of property is owned by the LDS Church; it is not owned by the Eagles or any other landowners within this development. The subdivision plat that he will be preparing is for those lots and the right-of-way goes up to this area, and the reason for that is if they look at the as-occupied locations, the way that those properties have been adjusted and slid. If they look at the area between these two points, there is about 100 feet of distance, and if they slide all the properties that distance on the same bearing as that line, they all sit where they belong. There may be other issues but that is between the Eagles and the LDS Church.

John Robbins, 10630 E Hwy 39 in Huntsville, said that they have a difference of opinion on that right-of-way and that is not an issue today, but as a matter of record they have a prescriptive right of use for where the road is presently and they will not agree to the changing of that deeded right of way. Director Wilkinson said that is not a consideration for tonight.

MOTION: Celeste Canning moved to approve BOA 2014-01 for the variance to include a lack of specifics as to how this is laid out to afford the applicant and the planning staff the flexibility to work out any issues that might arise that they are not aware of at this point. The reason for approval of this variance; they are not correcting self-imposed hardship, but they are correcting an unusual error in surveying for the timeframe that this was surveyed. The special circumstances are attached to this are because of the surveying error, and there would be a hardship for the property owner, and all of the houses would have to be picked up and moved, and there have been decades of traditional occupation that would be uprooted. This doesn't make any changes to the general plan, it is not an attempt to circumvent the land use code, and it is an attempt to make our county property records harmonize with the actual use that has been going on for many years. Doug Dickson seconded. A vote was taken with Rex Mumford, Doug Dickson, Celeste Canning, and Chair Ehlers-Rhorer voting aye. Motion Carried (4-0).

3. Election: Election of Chair and Vice Chair for 2015

Doug Dickson nominated Rex Mumford for chair. Celeste Canning seconded. A vote was taken with Rex Mumford, Doug Dickson, Celeste Canning, and Chair Ehlers-Rhorer voting aye. Motion Carried (4-0).

Celeste Canning nominated Doug Dickson for Vice Chair. Rex seconded. A vote was taken with Rex Mumford, Doug Dickson, Celeste Canning, and Chair Ehlers-Rhorer voting aye. Motion Carried (4-0).

4. Schedule & Information: 2015 Meeting Schedule and Member Information List: The members were given a copy of the 2015 Meeting Schedule and Member Information List to review

5. Rules of Order: Consideration and Action the Board of Adjustment Rules of Order:

MOTION: Rex Mumford moved to approve the Board of Adjustment Rules of Order. Celeste Canning seconded. A vote was taken with Rex Mumford, Doug Dickson, Celeste Canning, and Chair Ehlers-Rhorer voting aye. Motion Carried (4-0).

6. Adjournment: The meeting was adjourned at 5:30 p.m.

Respectfully Submitted,



Kary Serrano, Secretary;
Weber County Planning Commission



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 50 foot stream corridor setback for the purpose of building a barn
Agenda Date:	Thursday, June 18, 2015
Applicant:	Weston Loegering
File Number:	BOA 2015-02

Property Information

Approximate Address:	1958 N 3850 E, Eden UT
Project Area:	18.46 acres
Zoning:	Forest Valley Zone (FV-3)
Existing Land Use:	Residential
Proposed Land Use:	Remain as existing
Parcel ID:	20-095-0001
Township, Range, Section:	T7N, R1E, Section 4

Adjacent Land Use

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

Staff Information

Report Presenter:	Ben Hatfield bhatfield@co.weber.ut.us 801-399-8766
Report Reviewer:	SW

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 barn.

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 subdivision plat for the lot showing the drainage and the buildable area. 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 June of 2005 as Lot 1 of Loegering Subdivision. This 18.46 acre lot is accessed by a private right of way through other properties to the northwest. The access then crosses a drainage and opens to a buildable area (approximately 1.72 acres). This buildable area as shown in Exhibit C lies at the base of some steep slopes and between two draws, one of which has the aforementioned drainage and is to the northwest of the area, the other, which is much smaller, to the southeast. During some months of the year, soil in this area is wet and unsuitable for building.

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).

In 2006 the applicant constructed a new home within the buildable area of Lot 1, well away from the drainage. On July 5, 2007 the applicant's contractor applied for a permit for a barn with an agricultural exemption. The site plan used for this permit (Exhibit F) did not show setback distances on the plan, and the permit was issued illustrating the setbacks for the zone but not the stream corridor.

In December of 2014 contractors representing the owner made application for permits to install solar panels. One set of panels were to be located on the ground and another would be located upon an addition to the barn. In March of 2015 different contractors made application for an addition to both sides of the barn (Exhibit G).

In reviewing these plans, Planning Division staff requested that setback distances be shown from the stream to the nearest portion of the addition. It was discovered that the barn was already built approximately 35 feet from the stream. Staff met with the contractor on site to verify if any encroachment had occurred, and if any addition would further encroach. It was apparent that a site plan with more detail would be needed. The applicant has provided that with Exhibit H.

This site plan shows the flattened buildable area which the owner had prepared with the subdivision in 2006. This left a sizable slope in the 28 feet of land in between the stream and any possible building area.

The request for the 22 foot variance to build within the stream corridor is based on the following items:

- The suitable 1.72 acre building area of the 18.46 acre lot was determined prior to the passing of the stream corridor standard. This preserved 91% of the lots area to be preserved with no development.
- Much of the lot is covered in steep slopes or drainage areas. Buildings are restricted to only that area next to the access turnaround.
- The applicant has voluntarily undergone extensive re-vegetation and beautification of the slope on either bank of the stream.
- The addition of the barn would be in an area already graded and disturbed. With the additional increased storage it is possible that additional buildings on the lot would not be needed.

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 and many other owners in the FV-3 Zone have properties with some slope, most are at lower elevations with less extreme slopes. This lot also has a limited buildable area, access requirements, and the drainage. With a portion of the barn already built, literal enforcement of the Land Use Code would require an undesirable result. As the lot was designed prior to the additional stream standards and with the barn already built, this request is the best scenario to correct an error made seven years ago.

- b. The special circumstances attached to this property are based on the slope, access, and reduced buildable area created while platting the lot.
- c. Zoning gives the property owner rights to construct an accessory building. Based on the current situation the barn would need to be removed or replaced elsewhere on the lot.
- 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 correct a mistake that occurred seven years ago. Granting the request would serve as substantial justice to allow the current owners continued enjoyment of their property as has been done for many years.

Conformance to the General Plan

Accessory buildings are allowed as a permitted use in the FV-3 Zone and granting this request will not increase the number of existing dwelling units in the area. 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

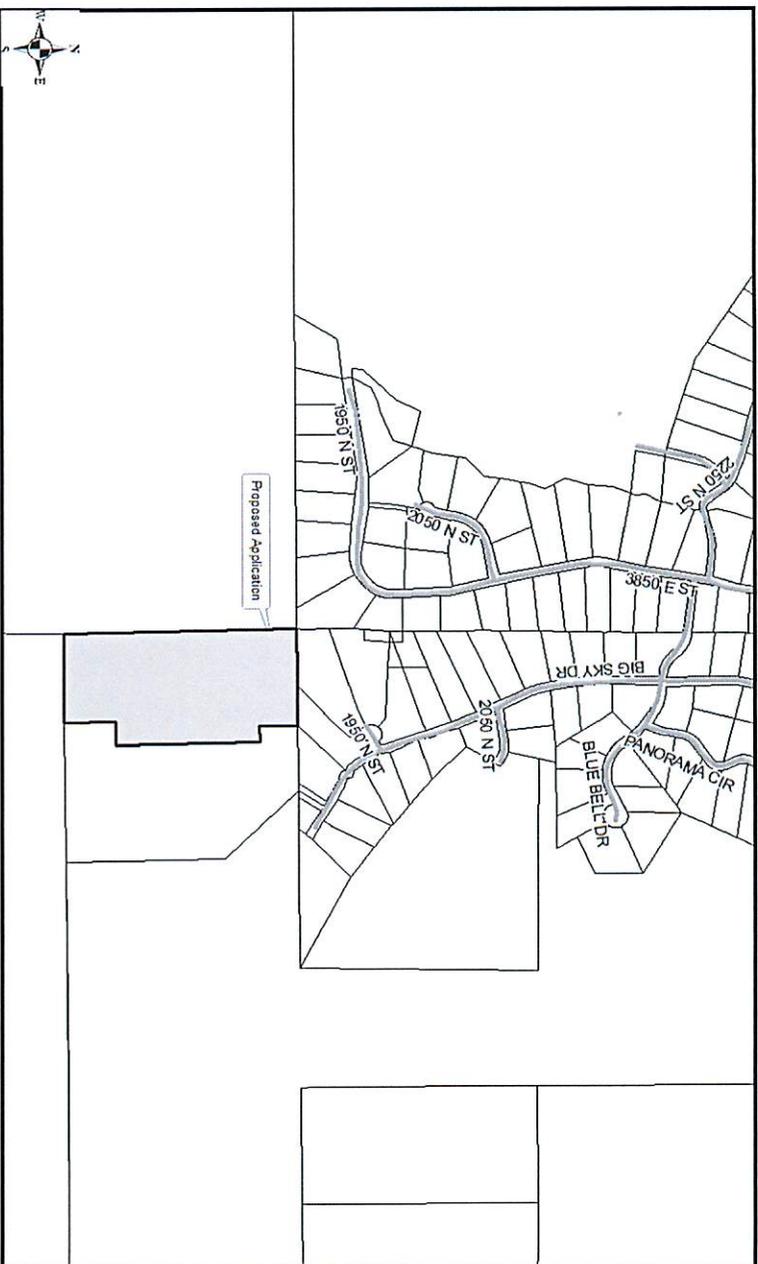
- That proposed addition maintain a minimum distance of 28 feet to the stream at the nearest location, and that the proposed site plan be followed.
- Meet all other applicable review agency requirements.

Staff Recommendation

Staff recommends *approval* of the variance for a 22 foot encroachment into the 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. Subdivision plat
- D. Map of stream corridors
- E. Applicable sections of the Sensitive Lands Ordinance
- F. 2007 permit for the barn
- G. 2015 application for the addition to the barn
- H. Surveyed site plan



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) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) Weston Loegering		Mailing Address of Property Owner(s)	
Phone 214-969-5264	Fax		
Email Address wcloegering@jonesday.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) Solitude Builders, LLC		Mailing Address of Authorized Person P.O. Box 529 Eden, Utah 84510	
Phone 801-452-5020	Fax		
Email Address cwy185@hotmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

- A variance request:
- __ Lot area __ Yard setback __ Frontage width Other: stream setback
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- Other: Weber County Ordinance 43-2(2)(3) to add on to an existing agricultural building within fifty feet of a natural ephemeral stream

Property Information

Approximate Address 1959 North 3850 East Eden, Utah 84310		Land Serial Number(s)	
Current Zoning			
Existing Measurements		Required Measurements (Office Use)	
Lot Area approx. 20 acres	Lot Frontage/Width 555'	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 30'	Rear Yard Setback 30'	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 20'	Side Yard Setback 20'	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

See Exhibit "A" attached

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.

See Exhibit "A" attached

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:

See Exhibit "A" attached

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

See Exhibit "A" attached

Variance Request (continued...)

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

See Exhibit "A" attached

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

See Exhibit "A" attached

Property Owner Affidavit

I (We), _____, 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.

(Property Owner)

(Property Owner)

Subscribed and sworn to me this _____ day of _____, 20 _____

(Notary)

Authorized Representative Affidavit

I (We), _____, the owner(s) of the real property described in the attached application, do authorized 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 "A"

APPLICANT NARATIVE

Applicant seeks to add an extension, in the approximate dimensions of 22' by 14.9", to an existing agricultural building ("Barn") to support solar energy equipment to power the Barn and residential home on the Loergering Property ("Property"). The Barn was constructed on the Property prior to the passage of the Ogden Valley Sensitive Lands Overlay District Ordinances. The Barn sits 35' feet from a seasonal stream, which often does not contain any water, but on occasion can include some run off water that is typically no higher than 6 to 12 inches and may run for a few weeks in the Spring. Please find attached hereto as Exhibit "B" a map depicting the existing home, the Barn, the proposed addition, and the approximate building envelope for the Property.

As depicted in Exhibit B, despite the fact that the Property contains over 20 acres, the building envelope is relatively small. The Applicant supports the small footprint of the buildable area and desires to maintain the natural landscape, stream and wildlife corridors, and other general aesthetics of the mountain environment. The construction and quality of the residential home and Barn are top-notch, modern, and energy efficient. The addition Barn would allow for the home and Barn to be powered by clean, solar energy.

By adding on to the Barn rather than constructing a new building, Applicant is minimizing the impact to the surrounding environment and aesthetics, staying with the building envelope, and minimizing any obstruction to any wildlife corridors. Also, the addition to the Barn will not encroach any closer to the seasonal stream, but will maintain the same 35' distance from the

stream. Moreover, giving the slope and topography of the Property, placing the addition elsewhere in the Property is simply not feasible and would only lead to further disturbance of the natural landscape of the Property.

Applicant has already taken steps with construction of the Barn to “mimic features of the natural landscape in developed areas by retaining as much pre-development, high quality habitat as possible.” See Weber County Ordinance 43-3. Similarly, as set forth in Weber County Ordinance 43-2 and 43-3(2), Applicant is “minimizing levels of disturbance to trees, the understory vegetation and other structural landscape feature during construction” and “preserving and landscaping with natural, native vegetation.” Applicant has minimized the visual contrast between human dominated areas and has planted “native vegetation and trees around a house or accessory building and maintaining consistent grading between developed and natural areas.” *Id.* Specifically, Applicant, since constructing the Barn has planted the following vegetation between the barn and seasonal stream: five concolor fir trees (aka white fir); three additional white fir trees will be planted as soon as the addition to the agricultural building is completed; one blue spruce; five aspen trees; a variety of native grasses including blue grama grass and little bluestem; a variety of native wild flowers, including Wasatch penstemon; alpine daisy; achillea (yarrow); gaillardia (blanket flower); and linum (blue flax). Further, Applicant will continue to add trees, grasses and flower in this area this year and over the course of the next several years. In addition, Applicant installed a sprinkler system to help sustain these plants as they become established, which will be kept in place for a least five years to ensure the newly planted vegetation thrives.

In summary, and as outlined above and further addressed in this Application, Applicant meets all the requirements to receive a variance to construction the addition to the Barn approximately 35’ from the seasonal stream

VARIANCE REQUEST

1.

The purpose of the general plan as it relates to this Property is to protect the ability of the stream to handle seasonal runoff. This purpose will not be negatively impacted by the addition, as the addition does not encroach any closer to the stream than the already existing Barn. In addition, the Applicant has already demonstrated and continues to demonstrate a willingness to add additional natural vegetation and other improvements that actually will help sustain and protect the seasonal stream.

The Applicant would suffer an unreasonable hardship, as there is no other feasible location for this improvement given the topography and small building envelope of his Property. In addition, not granting the variance would impact the Applicant's ability to sustain and improve power consumption. Other properties within this zone may also install solar power equipment and other energy efficient improvements, but given the topography and building envelope of the subject Property, a variance is needed.

2.

The special circumstances of the Property include, but not limited to: (1) the fact that the Barn existed prior to the application of the Overlay Ordinance; (2) the addition does not further encroach upon the seasonal stream; (3) there is no other feasible location for the addition and equipment; (4) the footprint for the addition is minimized by adding on to the existing Barn; (5) the water in the seasonal stream is very minimal and will not be impacted; (6) the topography and slope of the Property do not allow for other locations for the addition; (7) the Applicant has already taken steps as outlined in Weber County Ordinances to place natural vegetation to minimize the

impact in the area; (8) adding on to the existing Barn will not impact any wildlife immigration patterns and will keep other natural vegetation in place, and (9) the addition of solar energy is at a positive impact upon this Property and the public in general. The special circumstance of this Property warrant a variance, and literal enforcement of the 15 additional feet is not needed to carry out the purpose of the Ordinance.

3.

The granting of the variance is essential to the enjoyment and utility of the Property, as the addition will allow for the Property to be self-sustaining, energy efficient and more environmentally friendly. The variance will not substantially affect the general purpose of the subject ordinance and is not contrary to any public interest. It also does not impact any occasional flow through the stream. Finally, for the reasons stated above, the spirit of the land use ordinance is being supported by this variance and substantial justice is being done.

4.

See previous responses. As explained in the narrative, the variance will not negatively impact the general public but will actually improve air quality and energy resources in the County as a whole.

5.

See previous responses. For all the reasons detailed herein, the granting of this minor variance will be in the spirit of the ordinance and will allow substantial justice to be done.

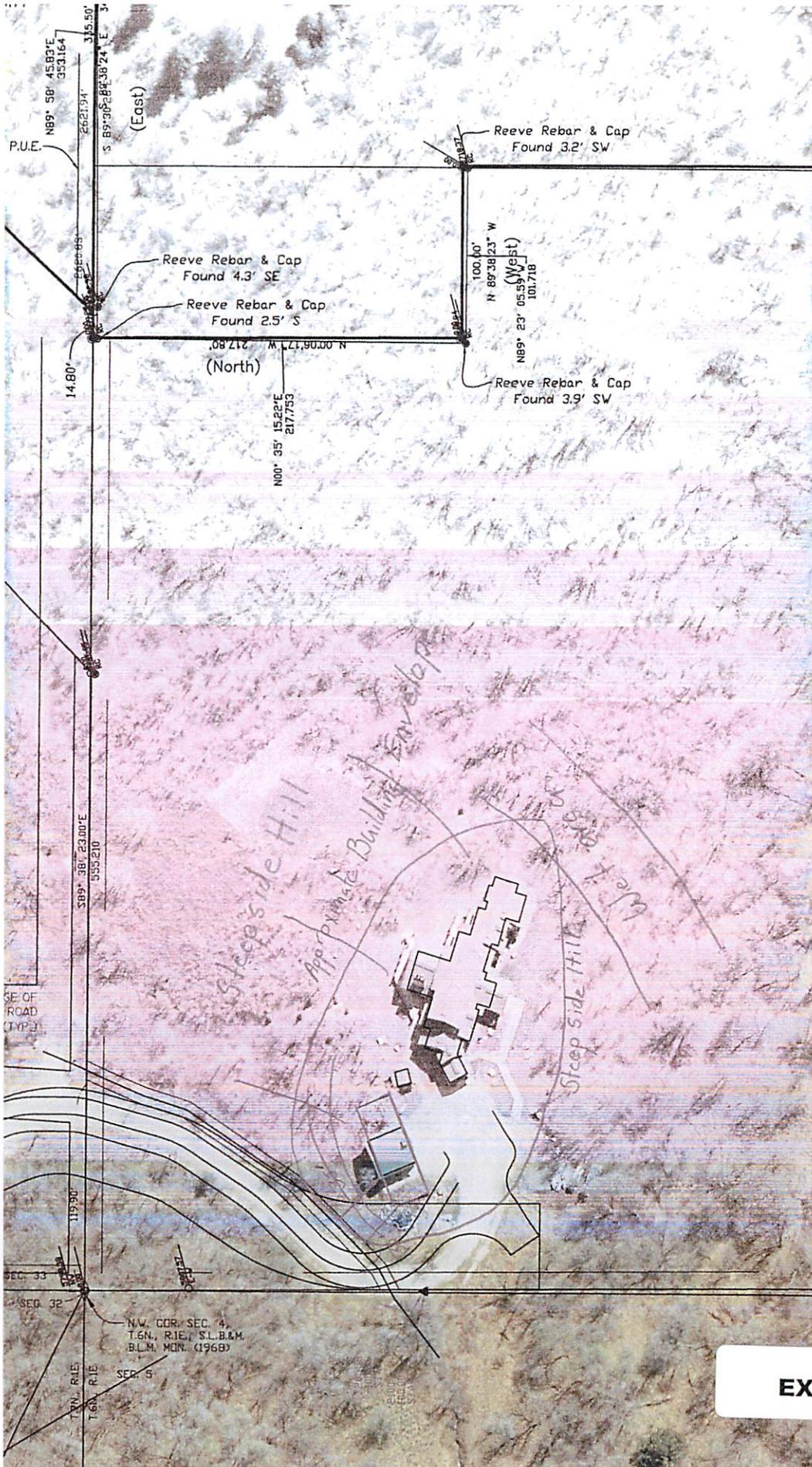


EXHIBIT B



Pole Canyon
1950 N

2300 N

3750 E

BIG SKY DR

Coal Hollow

Grover Hollow

2600 N

2650 N

2125 N

5025 E

- **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.

(2)

Exceptions.

a.

Bridges or stream alterations approved by the Army Corps of Engineers and state department of natural resources, division of water rights.

b.

Trails built in conformance to chapter 40, Ogden Valley Pathways, of the Land Use Code.

c.

The Ogden River below Pineview Reservoir.

d.

All existing structures, accessory structures, roads, or parking areas prior to the adoption of Ordinance No. 2005-19 River and Stream Corridor Setbacks.

(c)

Stream flow. No work of any kind shall be allowed in a stream corridor or any change that would alter the flow of a stream without a stream channel alteration permit and/or an approved water right from the state department of natural resources, division of water rights.

(Ord. of 1956, § 43-2)



Planning Commission Land Use Permit

Permit Number: LUP148-2007

Applicant

Name: LOEGERING, WESTON C & WF
Address: 8378 SAN FERNANDO WAY

Phone:

Owner

Name: LOEGERING, WESTON C & WF
Address: 8378 SAN FERNANDO WAY

Phone:

Parcel

Parcel Number: 200950001

Zoning: FV-3

Total Parcel Area: 18.46

(*If Zoned S-1, See Specific Height Requirements)

Address: 1958 N 3850 E

****See Diagram on Back Side for Setbacks**

Section: 4 Township: 6N Range: 1E

Subdivision: Loeering Lot(s): 1

Proposed Structure: New Commercial/Industrial Bldg. Structure Area Used: 484

Is Structure > 1,000 Sq. Ft.? *If True, Need Certif. Statement

of Dwelling Units: 1 # of Accessory Bldgs: 0 # Off-Street Parking Reqd:



Permit Checklist:

Public by/Right of Use Road?

> 200 ft. from Paved Road? No

< 4218 ft. above Sea Level? No

Wetlands/Flood Zone? No

Culvert Required? No

If Yes, Culvert Size:

Additional Frontage Reqd.?

OR Special Exception? Case #

Meet Zone Area & Frontage? True

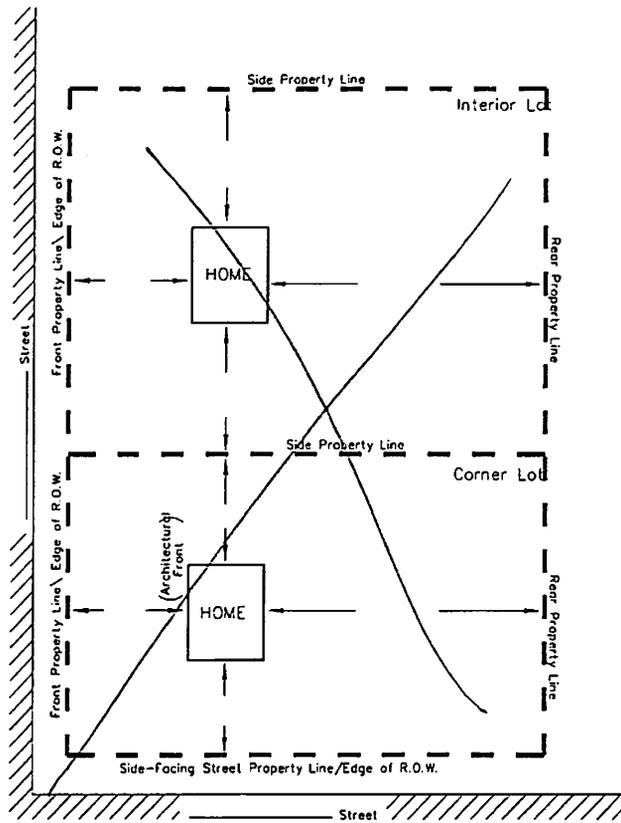
Hillside Review Reqd.? No Case #

Culinary Water District:

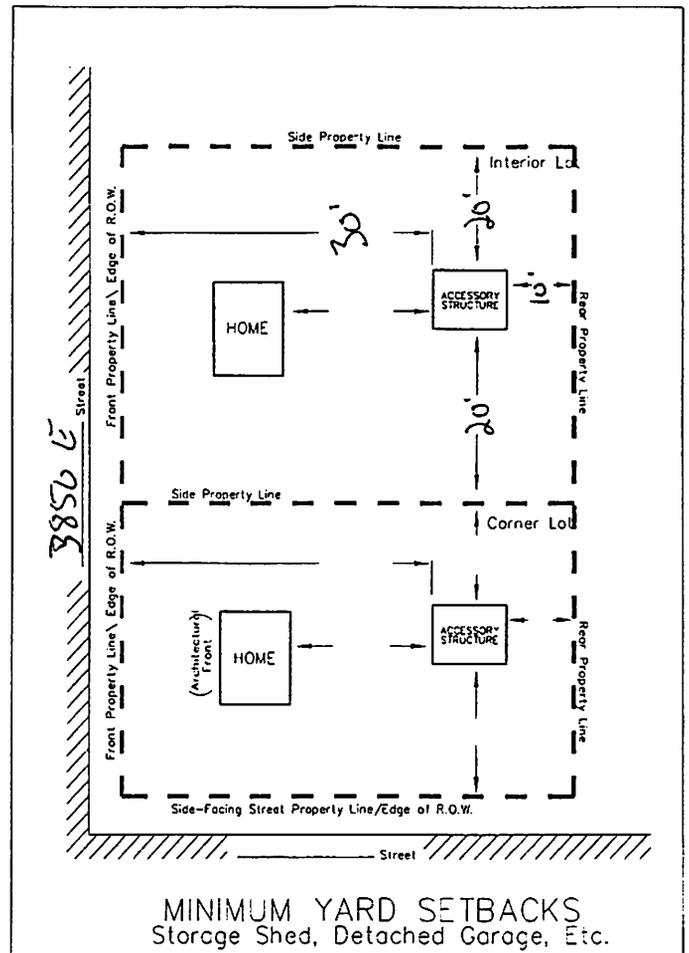
Waste Water System:

Comments: Aq exempt.

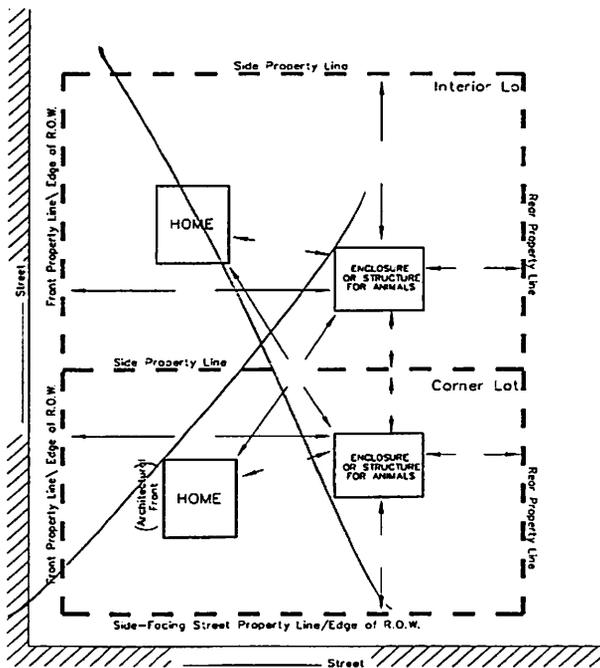
Structure Setback Graphic: Storage Shed, DetachedGarage,etc



MINIMUM YARD SETBACKS
New Dwelling, Addition, Etc.



MINIMUM YARD SETBACKS
Storage Shed, Detached Garage, Etc.



MINIMUM YARD SETBACKS
Barn, Corral, or Stable

NOTICE FOR APPLICANT (Please Read Before Signing)

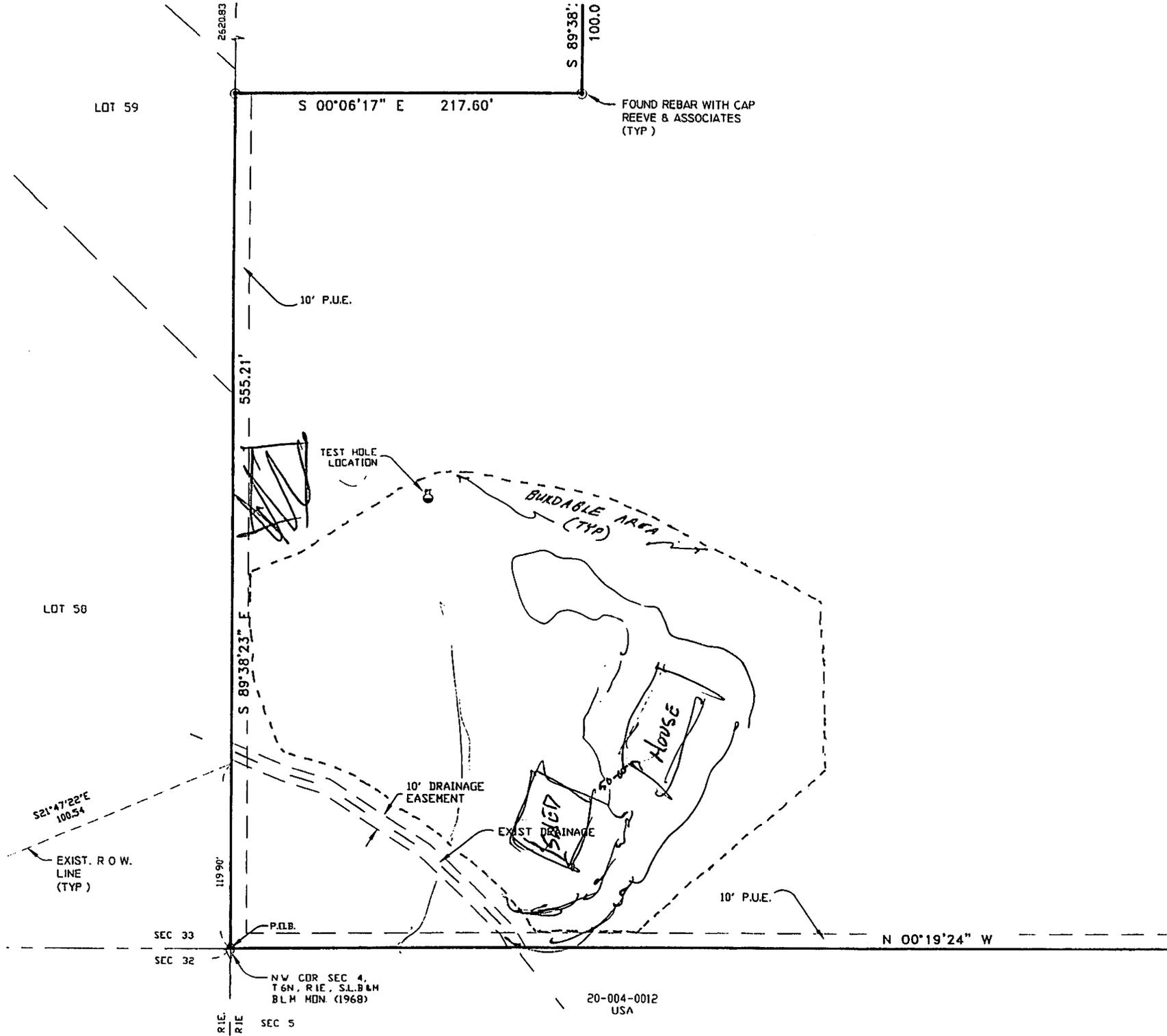
Proposals for the installation of an individual water supply and for a sanitary waste disposal system (septic tank) for any structure designed for human occupation must be approved by the Weber County Health Department prior to installation.

[Signature] *7/5/07*
 Planning Dept. Signature of Approval Date

This permit becomes null and void if use or construction authorized has not commenced within 180 days or if there is a zone change affecting this property. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this land use will be complied with whether specified herein or not. I make this statement under penalty of perjury. I hereby agree to make the requirements as specified on this permit issued to the owner of land as signed below.

[Signature] *July 5 - 07*
 Contractor/Owner Signature of Approval Date

61-092



Should a Land Use Permit be issued, I understand that a Land Use Permit for a building or use issued on the basis of this application in connection with approved plans and specifications only authorizes the use, arrangements, and construction set forth above. For example, a division in the property reducing the land area or public road frontage from the amount indicated above that results in an existing or future lot for dwelling purposes that does not comply with all of the provisions of the zoning ordinance is unlawful and renders such clearance null and void.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE LAND AREA, FRONTAGE, LAND USE AND OTHER INFORMATION LISTED ABOVE IS TRUE AND ACCURATE SUBJECT TO FORFEITURE OF PRELIMINARY ZONE CLEARANCE AND BUILDING PERMIT.

Date _____
Owner's Signature

Date _____
Applicant's Signature if different from the Owner

FOR OFFICIAL USE ONLY

___ Approved

___ Not Approved

Signature

Date

** When the Land Use Application has been approved, then secure the following:

1. A Land Use Permit from the Planning Office
2. A septic tank permit from the Environmental Health Dept., if required
3. Verification of source of domestic water and power
4. Receipt from the Fire District for the Fire Hydrant Impact Fee
5. Two copies of construction plans, including plot plans, must be submitted to and approved by the Building Inspector for building permit (must be stamped by an Engineer).

**WEBER COUNTY
AGRICULTURAL BUILDING
PERMIT EXEMPTION REQUEST**

Name BUXTON INC

Address 1435 W. 3200 S.

City OGDEN State UT Zip Code 84401

Phone (801) 621-0344

Building Address 1958 N. 3850 E.

Tax ID # 20095001

I CERTIFY THAT THE PROPOSED BUILDING, LOCATED AT THE ADDRESS LISTED ABOVE, WILL BE USED SOLELY IN CONJUNCTION WITH AGRICULTURAL USE AND WILL NOT BE USED FOR HUMAN OCCUPANCY. I ALSO UNDERSTAND THAT ANY PLUMBING, ELECTRICAL OR MECHANICAL WORK IN CONJUNCTION WITH THIS BUILDING IS NOT EXEMPTED FROM PERMIT REQUIREMENTS.

I ACKNOWLEDGE RECEIVING A COPY OF UTAH CODE TITLE 58-56-4 CONCERNING PERMIT EXEMPTION OF AGRICULTURAL BUILDINGS.

TODD BUXTON
Print Name

[Signature]
Signature

July 5 - 07
Date

- 1 copy Planning & Zoning File
- 1 Copy Building Inspection File
- 1 Copy Assessors Office

58-56-4. Definitions -- Adoption of building codes -- Amendments -- Exemptions.

(1) As used in this section:

(a) "agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals

(b) "not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(i) maintenance and repair; and

(ii) the care of livestock, crops, or equipment intended for agricultural use which are kept there; and

(c) "residential area" means land that is not used for an agricultural use and is:

(i) (A) within the boundaries of a city or town; and

(B) less than five contiguous acres;

(ii) (A) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27, Part 8, Subdivision; and

(B) less than two contiguous acres; or

(iii) not located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agricultural Protection Area.

(2) Subject to the provisions of Subsections (4) and (5), the following are adopted as the construction standards to which the state and each political subdivision of this state shall adhere in building construction, alteration, remodeling and repair, and in the regulation of building construction, alteration, remodeling and repair:

(a) a building code promulgated by a nationally recognized code authority;

(b) the National Electrical Code promulgated by the National Fire Protection Association;

(c) a plumbing code adopted by a nationally recognized code authority; and

(d) a mechanical code promulgated by a nationally recognized code authority.

(3) The division, in collaboration with the commission, shall adopt by rule the edition of the NEC or code and specific edition of the codes described in Subsections (2)(a), (c), and (d) to be used as the standard and may adopt by rule successor editions of any adopted code.

(4) The division, in collaboration with the commission, may adopt amendments to the adopted codes to be applicable to the entire state or within a political subdivision only in accordance with Section 58-56-7.

(5) (a) Except in a residential area, a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempted from the permit requirements of any building code adopted by the division.

(b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing, electrical, and mechanical permits may be required when that work is included in the structure.

Go

Edit Delete Add a File Email

Planning Review

Project: Loegering System- Solar
User: Ben Hatfield
Department: Weber County Planning Division
Created: 2015-01-28 17:28:58
Modified: 2015-03-18 13:28:38

Notes

In reviewing this application it appears that some additional information is required. Please review the comments below. If there are any questions please contact me and we can go through them.

- Based on the site plan it is slightly unclear on what is proposed to be built. It appears that 28 roof mounted solar panels would be placed upon the top of an existing building. Does this require expansion of the footprint of the building, like an addition? The building on the plan appears different and larger than the one viewed in the field, why is that?
- Are there to be a seperate group of panels mounted to the ground, if so what are the dimensions? They are not on the site plan.
- The site plan does not show setback distances to any lot line. Please measure and show those.
- This lot has a stream that passes near by, and has a required setback from it. Please show on the site plan the distance of the proposed structures to the high water mark of the stream. The Weber County Engineering Division can help you determine that stream location and high water mark.
- It is unclear in the record if each building on site has recieved permits. I have reason to beleive that the garage on the site plan was given a permit as an agricultural building, and has certain limitations on its use. One of those is that the building not be used as a garage. A building permit and therefore structural inspections were not preformed on the building. With the extra weight and change in use of the building, certain requirements possible could be required.
- What is the use of the structure? Does the owner have any records permitting this building as something other than an agricultural building?

These are my concerns at this time. Again please let me know if you have any questions.

Ben Hatfield
801-399-8766
bhatfield@co.weber.ut.us

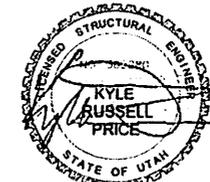
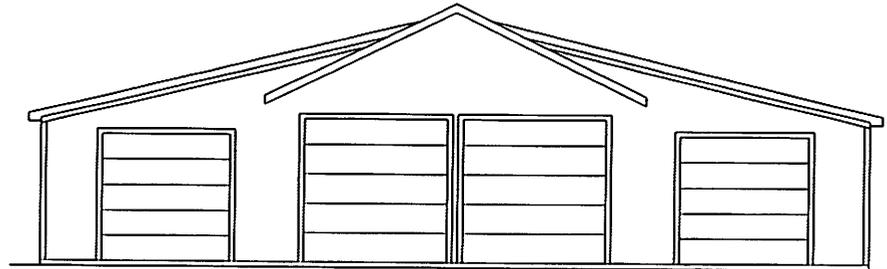
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SOLITUDE BUILDERS

LOEGERING ADDITION

WEBER COUNTY, UTAH



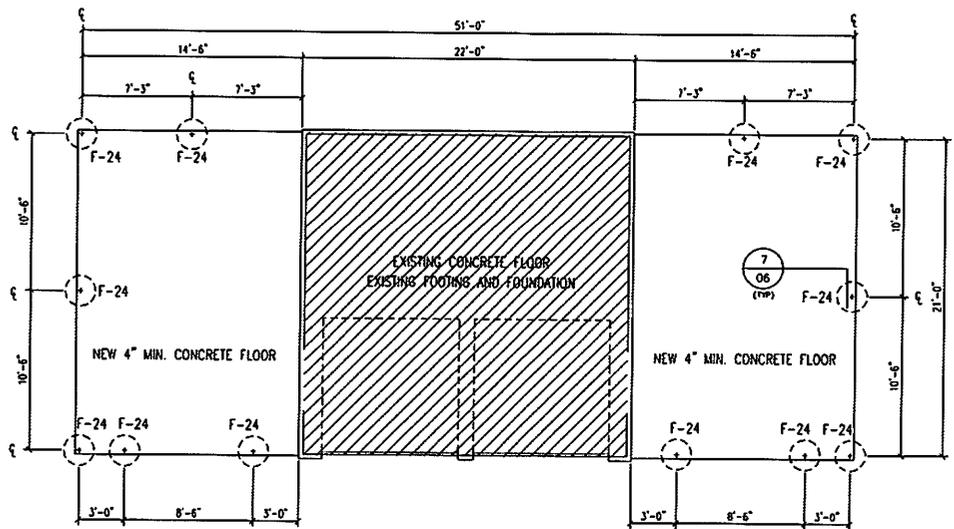
02/23/15

MAR 04 2015

NOTICE AND WARNING:

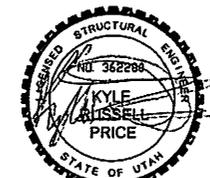
DO NOT COPY OR DUPLICATE THIS PLAN
WITHOUT WRITTEN AUTHORIZATION
FROM PSION CONSTRUCTION

PROJECT INFORMATION: LOEGERING ADDITION WEBER COUNTY, UTAH	BUILDING INFORMATION: SQUARE FOOTAGES: ADDITION AREA 334	DRAWING INDEX: 00 COVER SHEET 01 MAIN FLOOR PLAN 02 FOUNDATION PLAN 03 ROOF FRAMING PLAN 04 ELEVATIONS/SECTION 05 ENGINEERING DETAILS 06 ENGINEERING DETAILS	GENERAL CONTRACTOR: SOLITUDE BUILDERS	DESIGNER: LAKMAN HOME DESIGNS SOUTH WEBER, UTAH (801) 205-0382 (801) 479-1661 FAX CONTACT: TIM LAKMAN
DRAWING/REVISION DATE: DATE: 02/23/15			CONSULTING STRUCTURAL ENGINEER: KYLE R. PRICE, S.E. 990 WEST 7900 SOUTH WILLARD, UTAH (801) 771-0542 CONTACT: KYLE PRICE	THESE PLANS ARE ISSUED TO: SOLITUDE BUILDERS FOR THE CONSTRUCTION OF ONE BUILDING LISTED IN THE PROJECT INFORMATION AREA OF THIS PAGE



F-24: 24" DIA. X 42" DEEP CONCRETE FOOTING.

FOUNDATION PLAN



02/23/15
12:04 PM

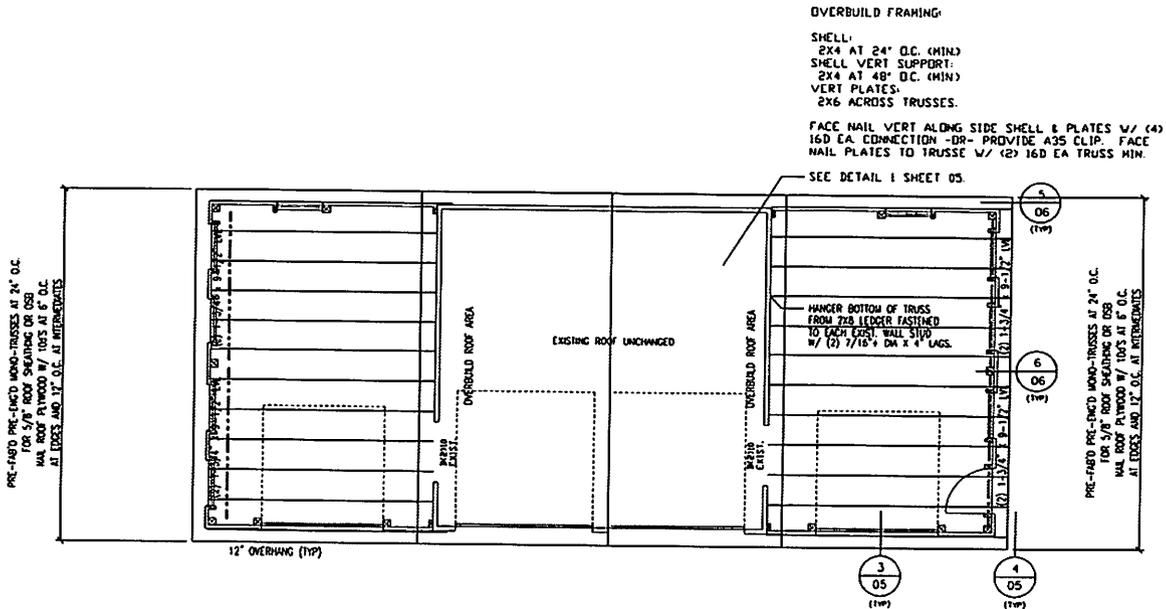
PRICE ENGINEERING
KYLE R. PRICE, S.E.
LAYTON, UTAH
(801) 771-0542

LAKMAN HOME DESIGNS
TIM LAKMAN
801-205-0382

LOEGERING ADDITION
LIBERTY, UTAH

DATE: 02-04-15
SCALE: 1/8" = 1'-0"
JOB: LOEGERING
SHEET:

02



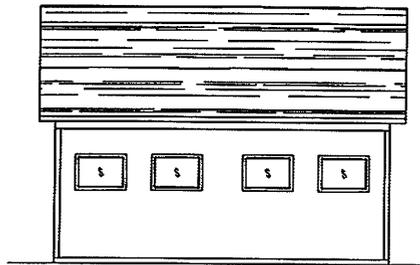
OVERBUILD FRAMING:
 SHELL:
 2X4 AT 24" O.C. (MIN)
 SHELL VERT SUPPORT:
 2X4 AT 48" O.C. (MIN)
 VERT PLATES:
 2X6 ACROSS TRUSSES.
 FACE NAIL VERT ALONG SIDE SHELL & PLATES W/ (4)
 16D EA CONNECTION -DR- PROVIDE A35 CLIP. FACE
 NAIL PLATES TO TRUSSE W/ (2) 16D EA TRUSS MIN.

SHEAR WALL PLAN
 ROOF FRAMING PLAN

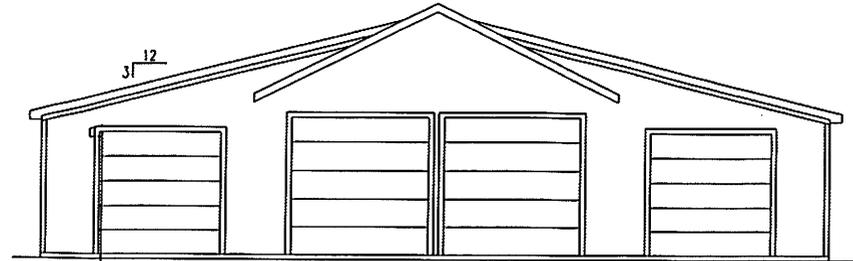


02/23/15
 02/04/2015

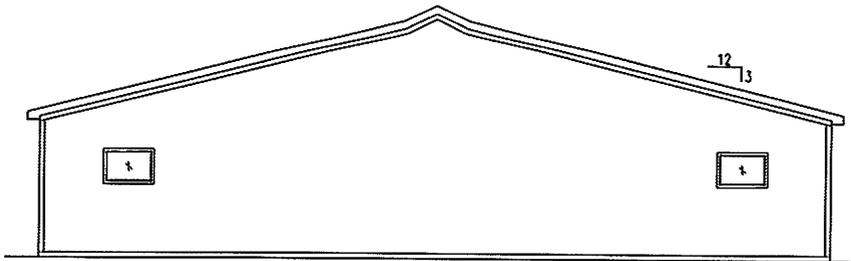
LOEGERING ADDITION LIBERTY, UTAH DATE: 02-04-15 SCALE: 1/8"=1'-0" JOB: LOEGERING SHEET: 03	 LAKMAN HOME DESIGNS TIM LAKMAN 801-205-0382	PRICE ENGINEERING KYLE R. PRICE, S.E. LAYTON, UTAH (801) 771-0542
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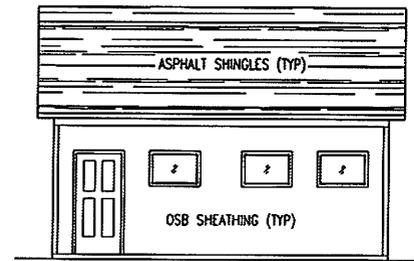
LEFT ELEVATION



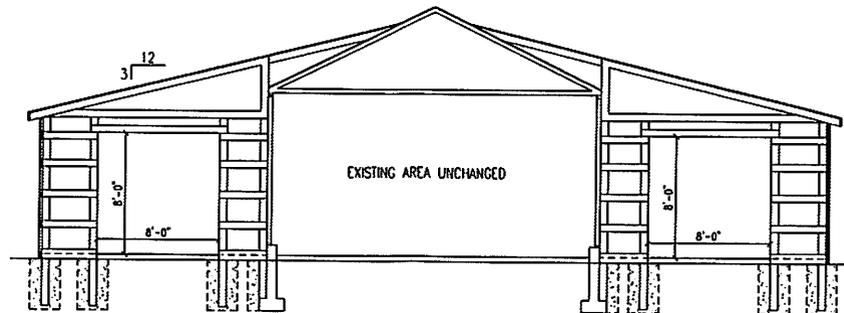
FRONT ELEVATION



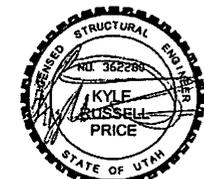
REAR ELEVATION



RIGHT ELEVATION



GIRT WALL



02/23/15

MAR 04 2015

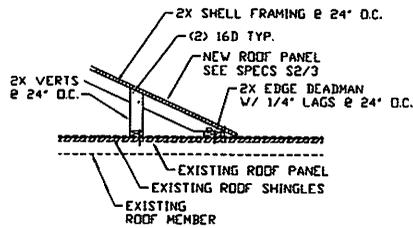
PRICE ENGINEERING
 KYLE R. PRICE, S.E.
 LAYTON, UTAH
 (801) 771-0542

LAKMAN HOME DESIGNS
 TIM LAKMAN
 801-205-0382

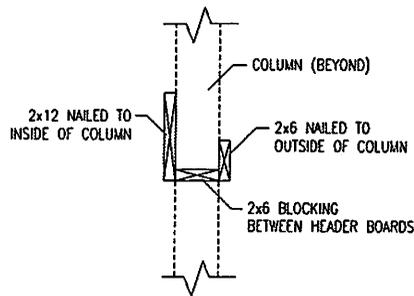
LOEGERING ADDITION
 LIBERTY, UTAH

DATE: 02-04-15
 SCALE: 1/8"=1'-0"
 JOB: LOEGERING
 SHEET:

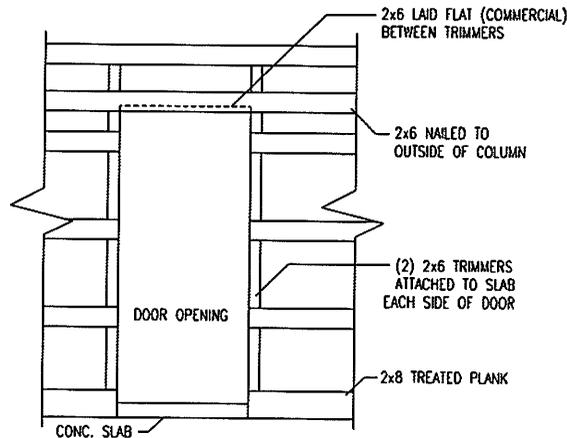
04



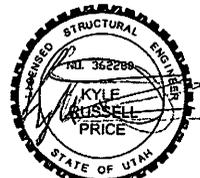
1 OVERBUILD SECTION
05 N.T.S.



3 O.H. DOOR HEADER
05 N.T.S.



4 MAN DOOR OPENING
05 N.T.S.



02/23/15
KYLE R. PRICE
02/01/2015

ENGINEERING NOTES:

DESIGN CRITERIA

GENERAL:
1. PLEASE REFER TO THE STRUCTURAL CALCULATIONS FOR ALL SPECIFICATIONS AND DESIGN CRITERIA NOT LISTED HERE. WHERE DETAILS ARE NOT SPECIFIED, TYPICAL DETAILS AS SPECIFIED ON PLANS AND ON THE STRUCTURAL DETAILS PLAN SHEET SHALL APPLY.
2. DESIGN CRITERIA:
DESIGN ACCORDING TO THE 2009 IBC, OCCUPANCY CATEGORY 1. FOR SPECIFICATIONS NOT SHOWN REFER TO THE 2009 IBC.
SEISMIC CRITERIA: DESIGN SPECTRAL RESPONSE B2%
DESIGN CATEGORY D
SOIL SITE CLASS D (ASSUMED)
WIND LOAD: WIND DESIGN SPEED 120 MPH 3 SEC. GUST
TERRAINE EXPOSURE C
IMPORTANCE 0.87
SNOW LOAD: ROOF DESIGN SNOW LOAD 40 PSF (REDUCED)
GROUND SNOW LOAD 98 PSF
IMPORTANCE 0.8, Ct 1.1 Ce 0.9
DEAD LOADS: ROOF STRUCTURE 3 PSF
WALLS 3 PSF

CONC. FOUNDATION PIERS

SIZE (MINIMUM): 24" DIAMETER X 3'-6" DEEP. SEE PLAN.
REINFORCEMENT: NO PIER REINFORCEMENT.

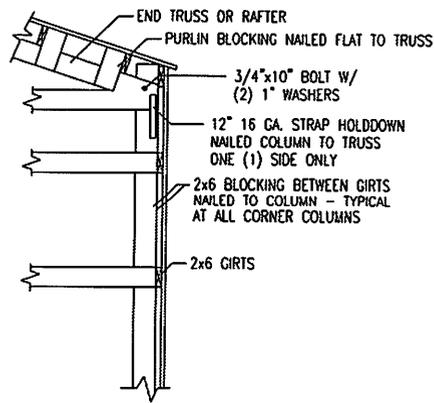
SOILS AND EXCAVATION NOTES

UNIFIED SOIL CLASSIFICATION: NO SOILS REPORT PROVIDED.
STABLE SOIL CHARACTERISTICS ASSUMED.
ALLOWABLE BEARING PRESSURE: 1500 PSF (ASSUMED)
ENGINEER ASSUMES SOME MINOR PIER SETTLEMENT AND MOVEMENT AT DESIGN LOAD IS ACCEPTABLE DUE TO STYLE AND USE OF BUILDING.
ALL DESIGN WAS BASED ON STABLE SOIL CHARACTERISTICS. GEOTECHNICAL HAZARDS FOUND ON OR AROUND THE SITE, INCLUDING EXPANSIVE CLAYS, OR SOILS FOUND AT THE SITE WHILE EXCAVATION OCCURS WHICH DIFFERS FROM THOSE ASSUMED SHOULD BE BROUGHT TO THE ATTENTION OF THE BUILDING OFFICIAL AND ENGINEER.

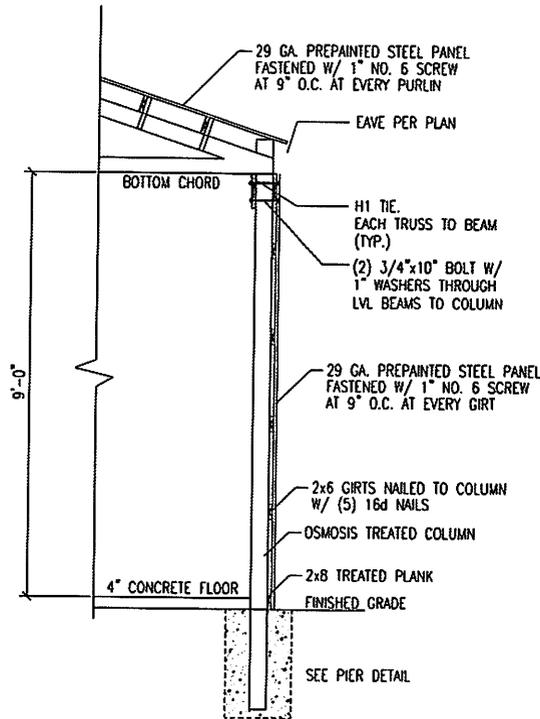
CONCRETE AND REINFORCEMENT NOTES

CONCRETE MIN. 28 DAY STRENGTH (F°C) W/ NORMAL 145 PCF DENSITY:
1. FOOTINGS: 2500 PSI DESIGN (PROVIDE 3000 PSI)
2. SLABS ON GRADE: 2500 PSI REQUIRED (3500 PSI RECOMMENDED)
ALL SLABS PROVIDE A MIN. THICKNESS OF 4" W/ 4" DEEP MIN. CRUSHED GRAVEL BASE. PROVIDE 1" DEEP CONTRACTION / CONSTRUCTION JOINTS NO FURTHER THAN 10' APART IN ANY DIRECTION.

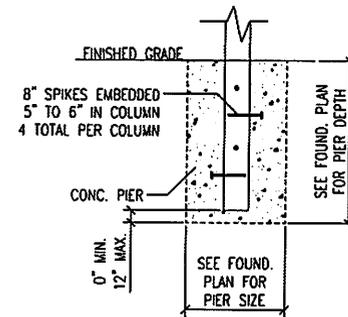
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 JOB: LOEGERING
 SHEET:
 05



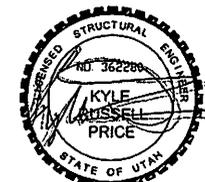
5
06 CORNER BLOCKING DETAIL
N.T.S.



6
06 TYPICAL WALL SECTION
N.T.S.



7
06 PIER DETAIL (TYPICAL)
N.T.S.



02/23/15
MAR 04 2015

<p>PRICE ENGINEERING KYLE R. PRICE, S.E. LAYTON, UTAH (801) 771-0542</p>
<p>LAKMAN HOME DESIGNS TIM LAKMAN 801-205-0382</p>
<p>LOEGERING ADDITION LIBERTY, UTAH</p>
<p>DATE: 02-04-15 SCALE: 1/8"=1'-0" JOB: LOEGERING SHEET: 06</p>

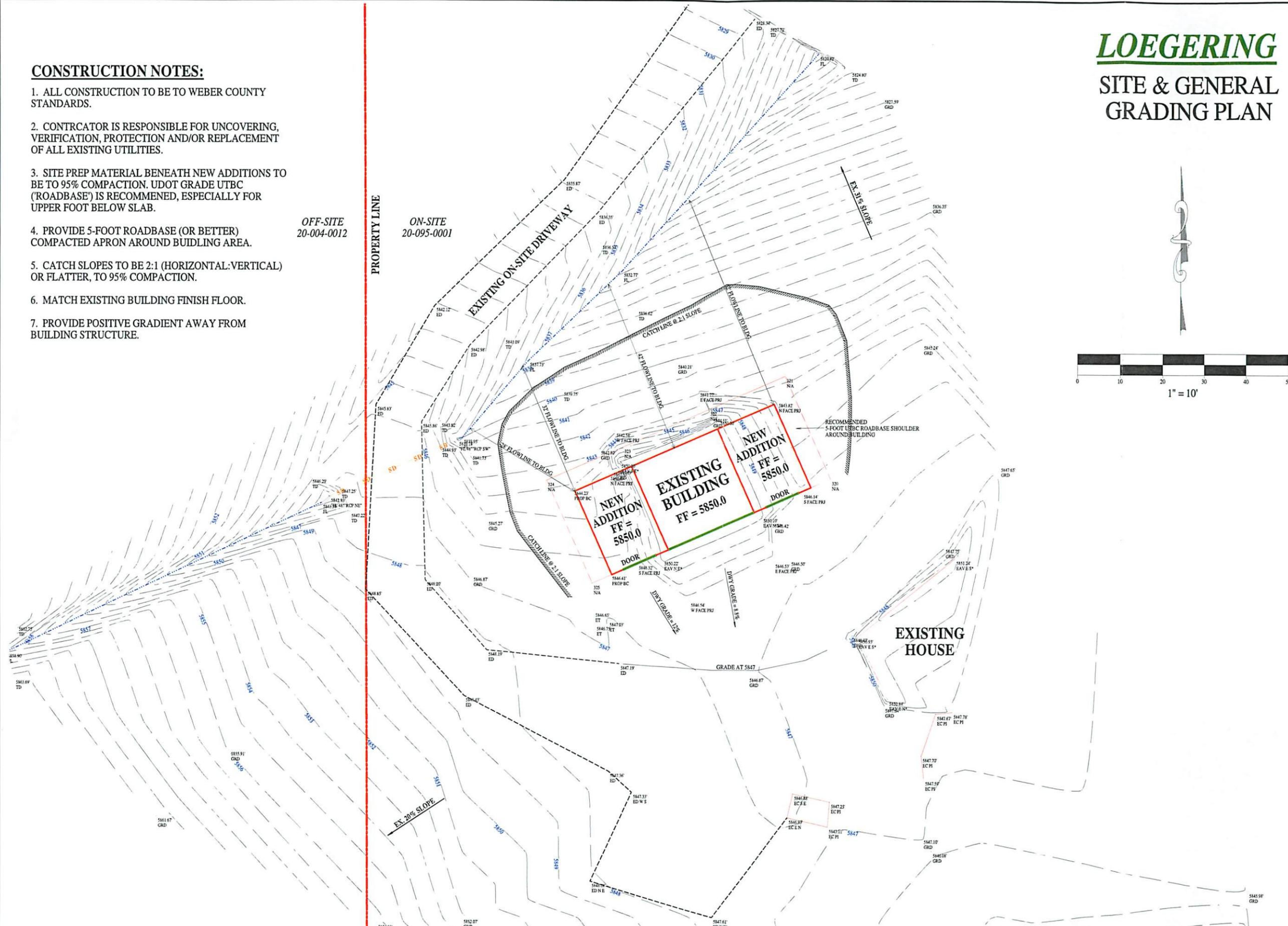
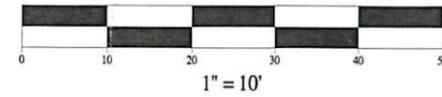
CONSTRUCTION NOTES:

1. ALL CONSTRUCTION TO BE TO WEBER COUNTY STANDARDS.
2. CONTRACTOR IS RESPONSIBLE FOR UNCOVERING, VERIFICATION, PROTECTION AND/OR REPLACEMENT OF ALL EXISTING UTILITIES.
3. SITE PREP MATERIAL BENEATH NEW ADDITIONS TO BE TO 95% COMPACTION. UDOT GRADE UTBC ('ROADBASE') IS RECOMMENDED, ESPECIALLY FOR UPPER FOOT BELOW SLAB.
4. PROVIDE 5-FOOT ROADBASE (OR BETTER) COMPACTED APRON AROUND BUILDING AREA.
5. CATCH SLOPES TO BE 2:1 (HORIZONTAL:VERTICAL) OR FLATTER, TO 95% COMPACTION.
6. MATCH EXISTING BUILDING FINISH FLOOR.
7. PROVIDE POSITIVE GRADIENT AWAY FROM BUILDING STRUCTURE.

OFF-SITE
20-004-0012

ON-SITE
20-095-0001

LOEGERING
SITE & GENERAL
GRADING PLAN



HANSEN & ASSOCIATES, INC.
Consulting Engineers and Land Surveyors
538 North Main Street, Brigham, Utah 84302
(435) 723-3491 www.haies.net



Drawn By:	JM	Date:	7 MAY 2015
Designed By:		Checked By:	
Approved By:		Scale:	1" = 10'
Drawn File:	15-112.CPCS	Drawn Number:	15-112

LOEGERING
SITE PLAN
1958 NORTH 3850 EAST
EDEN, UTAH
WEBER COUNTY

Sheet	1
of	1
Sheets	
PHASE PLAN	



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a variance of 3 feet to the required 10 foot side yard setback for a dwelling.
Agenda Date: Thursday, June 18, 2015
Applicant: Zane Froerer representing Darold and Carol Harris
File Number: BOA 2015-03

Property Information

Approximate Address: 3319 North Highway 162; Liberty UT
Project Area: 42,253 square feet
Zoning: Agricultural (AV-3)
Existing Land Use: Residential
Proposed Land Use: Remain as existing
Parcel ID: 22-022-0179
Township, Range, Section: T7N, R1E, Section 28

Adjacent Land Use

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

Staff Information

Report Presenter: Jim Gentry
jgentry@co.weber.ut.us
801-399-8767
Report Reviewer: SW

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 6 (Agricultural Valley AV-3)
- Weber County Land Use Code Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive lands Overlay District)

Background

The applicant is requesting a 3 foot variance to the required 10 foot side yard setback at 3319 North Highway 162 in Liberty, in the Agricultural AV-3 zone. The original building permit issued in 1991 was for a personal storage building. At some point this building was converted to a dwelling unit. Both types of buildings require a ten foot side yard setback. The applicant wants to get approval from the Building Official for the building to be used as a dwelling. However, before the applicant spends money to bring the building up to code for a dwelling, a variance is needed.

The existing storage building was built as an accessory unit to dwelling on the adjacent property. Since that time the home on the adjacent property has been sold. In 2014, a rebuilt letter was issued for the legal status of the lot, not for the structure on the property. This is a lot of record and a home can be built on the property without having to plat the lot as a subdivision. This means the storage building can be converted to a dwelling if all building codes and zoning regulations can be met.

The applicant has explored the option of removing the corner of the building to meet the side yard setbacks, but that option was too expensive and the final amount was not determined. There are unique boundary conditions and special circumstances attached to this property. The lot is classified as an irregular shaped lot, which means any building lot whose boundaries are: (1) Comprised of three or more than four lot lines. This lot has 3 sides. A natural ephemeral stream runs through the property which has a 50 foot setback from the high water mark. The fence line used to determine the setbacks has been in place for over 30 years.

In the application the applicant states “when the County approved the garage, it did so justly relying upon the fence line”. The applicant had the option of having the property lines surveyed before the building was built, but chose to use the existing fence line. The County relies on the applicant to show where the property lines are located. In this case the applicant represented the fence is where the property lines is. The applicant has had a survey done since that time and proposed a 244 square foot property line adjustment between this property and the adjacent property. The adjacent property owner is unwilling to adjust the property lines.

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.*

The applicant has submitted a narrative addressing the above criteria, which is attached as Exhibit “A”. Staff’s analysis and findings are discussed below:

- a. Literal enforcement of the Land Use Code would require the removal of 3 feet of the corner of the storage building. The storage building was constructed 24 years ago and until recently was believed to have been built in accordance to the side yard setback requirement based on the fence line, which has been relied upon in locating other structures. The intent was to build the storage building at the required 10 foot setback as is evident in the land use and building permits and the aerial photos. This request is not self-imposed but rather a correction to an error made 24 years ago.
- b. There are unique boundary conditions and special circumstances attached to this property. The lot is classified as an irregular shaped lot, which means any building lot whose boundaries are: (1) Comprised of three or more than four lot lines. This lot has 3 lot lines. A natural ephemeral stream runs through the property which has a 50 foot setback from the high water mark. The fence line used to determine the setbacks has been in place for over 30 years. The inspection that determined the setbacks was not accurate, and was based on a fence that was in the wrong location.
- c. Zoning gives property owners the right construct a dwelling unit on parcels that were legally created on a lot of record, as this parcel was.
- d. The General Plan indicates this area should allow and be preserved for single-family dwellings, no changes are proposed.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but to correct a mistake that occurred in 1991, and render the reduced setback legal. Granting the request would

allow the current structure to remain as is without further issues, and allow the conversion of the structure to a dwelling unit.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the AV-3 Zone and granting this request will not increase the number of dwelling units in the area as this is a lot of record and a dwelling would be allowed on this parcel. 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

- Meet all other applicable review agency requirements.
- Obtaining a land use permit and a building permit prior to conversion of the storage building to a dwelling.

Staff Recommendation

In granting a variance the Board of Adjustment shall make a finding that the variance meets the 5 criteria above. Staff has determined that this variance request complies with the variance criteria and, therefore, recommends approval of a 3 foot side yard setback reduction.

Exhibits

- A. Applicant's Narrative
- B. Location map
- C. Inspection Report

ATTACHMENT

Applicant Narrative:

Applicant is the owner of real property located within Weber County identified by Land Serial Number 22-022-0179. Currently, there is a garage located on the property and no other buildings. Construction of the garage commenced on [date]. The Applicant, the County, and the contractor all relied upon the existing fence line as the historically accepted boundary line to determine the appropriate location of the garage. The contractor even adjusted the location of the garage to the fence line based upon the historically treatment of the fence line by all property owners as the boundary line.

In 2007, the new owners of the adjacent lot removed this fence without any notice to the Applicant. The new owners also replaced this existing fence with a newer fence that was moved towards the garage. The Applicant paid for a survey and learned that the new fence line is also not on the actual property line.

Based upon the problems created by the new owner's refusal to recognize the existing fence line as the property line, the Applicant presented the new owner with a boundary line adjustment agreement to clear up any disputes or problems with the location of the boundary line. This adjustment would have resolved the historical reliance upon the fence line and adjusted the property lines to conform with all appropriate setbacks. However, to date, the neighbor, Mr. Foley, has refused to cooperate in this process.

As it currently stands, the garage no longer complies with the necessary 10 foot setback from the property line. The Applicant believes that the actual property line has been adjusted through the mutual agreement, use, and acquiescence of past property owners to the fence line and that granting a variance to permit the garage to continue in its location is appropriate under those circumstances regardless of Mr. Foley's refusal to acknowledge the prior fence line as the historically recognized property line.

Variance Request:

1. Unreasonable Hardship: Based upon the survey, which is presumed accurate, the garage currently fails to conform with the 10 foot side yard setback requirement. Curing this non-conformity would be a substantial financial burden. The Applicant has yet to fully explore whether it is possible to cut off a portion of the building, but has been told that this would be the minimum adjustment which would cost thousands of dollars. The Applicant is retired, 73 years old, and his only income is his social security. The reliance upon the fence is particular to this lot and the neighboring lot rather than the entire neighborhood. Because of the historical nature of the use of the property, farming, it was common for property owners to set a fence line to demarcate the estimated location of lot lines and then for both parties to accept that fence line as the definitive location of the lot line. Based upon the circumstances surrounding this fence line and the way it was treated

by prior property owners, it appears that the fence line has been historically treated as the property lines by the adjoining land owners.

Under Utah Law, the fence line should be treated as the true property line by the County per the doctrines of boundary by agreement or acquiescence. The Applicant has reviewed the origin of the fence line and has determined that it has historically been used and treated as the property line. Until 2007, both land owners had treated the fence as the property line. There is a history of treating this fence line as the property line for over twenty years. So even if this was by happenstance or acquiescence, the fence line was the property line at the time the garage construction commenced. Therefore, this is not a self-imposed hardship.

2. **Special Circumstances:** As detailed above, this property and the location of the garage are both governed and affected by special circumstances. Namely, the reasonable reliance upon the fence line as the property line when that was a common practice by landowners, contractors, and the County. This relates directly to the property and the garage. It would also create a hardship that deprives the Applicant of privileges granted to other properties where reliance upon fence lines, a frequent occurrence in the area, was permitted and is still ongoing. Other property owners were not required to get surveys but also relied upon the fence lines. Some of those fence lines did in fact turn out to be the actual property lines. Some of those fences, though not the actual property lines, were reasonably relied upon by amicable neighbors as the property lines. The disruption of this understanding would cause the Applicant hardship.
3. **Enjoyment:** As the garage exists, it cannot be legally used without the variance. Neither is it likely that the County can permit further improvement to the lot without the garage being torn down or the variance being granted. However, there are building permits, land use permits, numerous inspections, and approvals that have accepted the basic premise that the original construction of the garage was appropriate. Implicitly, the County also accepted and endorsed the reliance upon the fence line as the boundary line. The garage is precisely ten feet from the location of the prior fence line, in full compliance with the setback requirements.
4. **General Plan:** The garage is seven and a half feet from the actual property line. Therefore, the variance would be for an adjustment of a little more than two feet. The garage has existed harmoniously within the neighborhood as an accepted fixture for over twenty years. This de minimus adjustment will not affect the general plan and is a core function of this Board.
5. **Spirit of Ordinance:** This adjustment comports with the spirit of the Ordinance, the ten foot setback, because it the garage was originally set up and constructed to be ten feet from the accepted and then recognized property line. It is Mr. Foley's intervening act of moving the fence and refusing to recognize the boundary dispute issue that has caused this hardship and placed the location of the garage in conflict with the Ordinance. Therefore, substantial justice can be achieved by granting a variance that recognizes the

position taken by the County in approving ongoing updates, modifications, and improvements to the garage over a period to two decades and at great cost to the Applicant. All parties relied upon the fence line as the property line which was reasonable at the time. The Applicant complied with the Ordinance to the best of his ability and relied upon the contractor's judgment, the historical fence line as the property line, and the County's own land use decisions.

ZANE S. FROERER, ESQ.
GRAEME L. ABRAHAM, ESQ.
NATHAN J. CARROLL, ESQ.
STEVEN J. RAMMELL, ESQ.
SHAUNA M. MILLER, MANAGER



2755 WASHINGTON BLVD #2
OGDEN, UT 84401
(801) 389-1533
FAX (801) 689-0329
FROERERLAW.COM

FROERER & ASSOCIATES

April 28th, 2015

To: Shawn Wilkinson
Weber County Planning Department

Re: Darold Harris hardship variance

Enclosures: Aerial Photograph, Copy of Original Building Permit with drawing, Current
Satellite photograph

Shawn:

Along with this letter please find enclosed an aerial picture, a copy of the original building permit and drawing for the garage, and a more recent satellite photo. Please consider this letter as an addendum to Mr. Harris's application for a variance.

As the aerial picture makes clear, for many years the adjoining homeowners as well as others in the area have used the location of fences to define the dimensions of their lots. The propane tank located adjacent to the fence helps demonstrate this. According to the survey on record with the County, this tank would be located on the neighboring lot. However, the parties relied upon the location of the fence and treated it as the true boundary.

This becomes important when considering Mr. Harris' hardship. The space between the fence as it existed and the garage was approximately fifteen feet. The aerial picture indicates that it was wide enough to drive between the garage and the fence with ease. Mr. Harris asserts that they backed the cement truck between the foundation and the fence when the garage was being constructed.

When the County approved the garage, it did so justly relying upon the fence line as well. This was in conformity with the way the adjoining property owners treated the fence lines as the property lines. Despite the survey, it is Mr. Harris' position that the true property boundary has been recognized for years as the fence line depicted in the aerial photo. The County's reliance now upon the survey creates a hardship from which Mr. Harris should be relieved.

Mr. Harris' hardship is very similar to the one faced by Wasatch Pacific, Inc. in *Save Our Canyons vs. Salt Lake City Board of Adjustments*. Ultimately, Wasatch was granted a hardship variance to construct an access road in variance of the ordinances.

The Board of Adjustments found, and both the District Court and Court of Appeals affirmed, that the requirements of granting a variance were justified because the literal enforcement would result in no access to the property and there was no other access; there were special circumstances due to the location of the property; the variance was essential to the enjoyment of a substantial property right; the variance did not substantially affect the general plan nor was in conflict with the public interest; and substantial justice was done.

A noteworthy similarity to this case is the finding of a hardship. In that case, the Board made four findings to support its decision on that point. First, there was no other location for the access road. Here, the garage has existed for nearly 30 years with its location relying upon the use of the fence line as the property line. Obviously, it cannot be moved so there is no other location for the garage to exist. Second, the literal enforcement of the zoning ordinance would deny Wasatch access to its property. Here, the literal enforcement of the ordinance would deny Mr. Harris the use of the garage in its current and only location. Third, the literal enforcement would prohibit all development of the parcel. Here, the further development of the parcel is barred until the garage is torn down or altered at substantial costs essentially rendering alteration impossible. Further, the use and benefit of the garage is also barred under the literal enforcement of the ordinance. Fourth, the road could be constructed in a way the substantially complied with the ordinance. Here, the garage substantially complies in two ways: 1) using the prior fence line as the property line it was in compliance with room to spare; 2) even now, adjusting the property line to the actual surveyed lines the garage is approximately seven feet from the boundary.

The reliance upon the fence line that was, at that time, accepted by all as the property line has created special circumstances for this property. While there are certainly other cases where this has occurred, it is not generally applicable to all properties in the area. For instance, the building permit was issued and several inspections occurred over a period of several years. There was even a change of use permit granted. Rather than merely an oversight, this creates a situation where the County should be estopped from going back on its prior land use decisions that were based upon the fence line as the property line. There should be no reason to after all. As a matter of law, boundary by acquiescence, the fence line was the proper property line to rely upon. The fact that a survey has since been conducted does not change this fact. It does create a special circumstance unique to this property for which the Board should grant an adjustment to accommodate.

Mr. Harris didn't create this hardship either. His claim to the then existing fence line as the property line was fully supported by the law. To have boundary by acquiescence, four elements must be satisfied and in this case they were. 1) Occupation up to a visible line marked by a fence, 2) mutual acquiescence to that line 3) for a long period of time 4) by adjoining land owners. By satisfying these elements, Mr. Harris demonstrates that the fence line was the actual property line to be used by the County. By shifting from that line to the survey line, the County's enforcement of the ordinance would impose a hardship upon Mr. Harris.

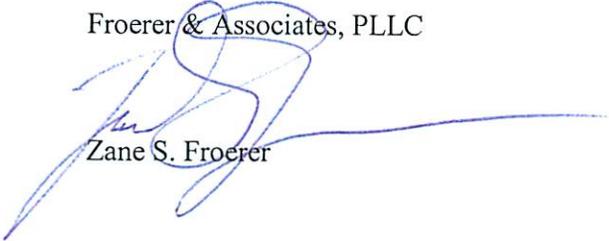
The prior land use decisions have created substantial property rights vested in the use of this lot. Under County Ordinances, improvements such as a garage are not permitted without the proper land use decisions. The building permits and land use permits issued to Mr. Harris would be of no effect and the enjoyment of the rights created by these land use decisions would be lost under the literal enforcement of the Ordinance.

Mr. Harris is not asking for widespread changes to policy and requirements that would substantially affect the general plan. Accommodating his garage is a matter of feet. It is not the end of zoning compliance as known to humanity. The spirit of the zoning ordinance, particularly the setback requirements remains satisfied. There is ample space between the garage and the existing fence which now encroaches upon Mr. Harris' property. The variance to the strict enforcement of the ordinance is balanced by the needs of

substantial justice which would relieve Mr. Harris of the harsh penalties. That is why the Board exists. To balance the needs of the many against the justice required by the one.

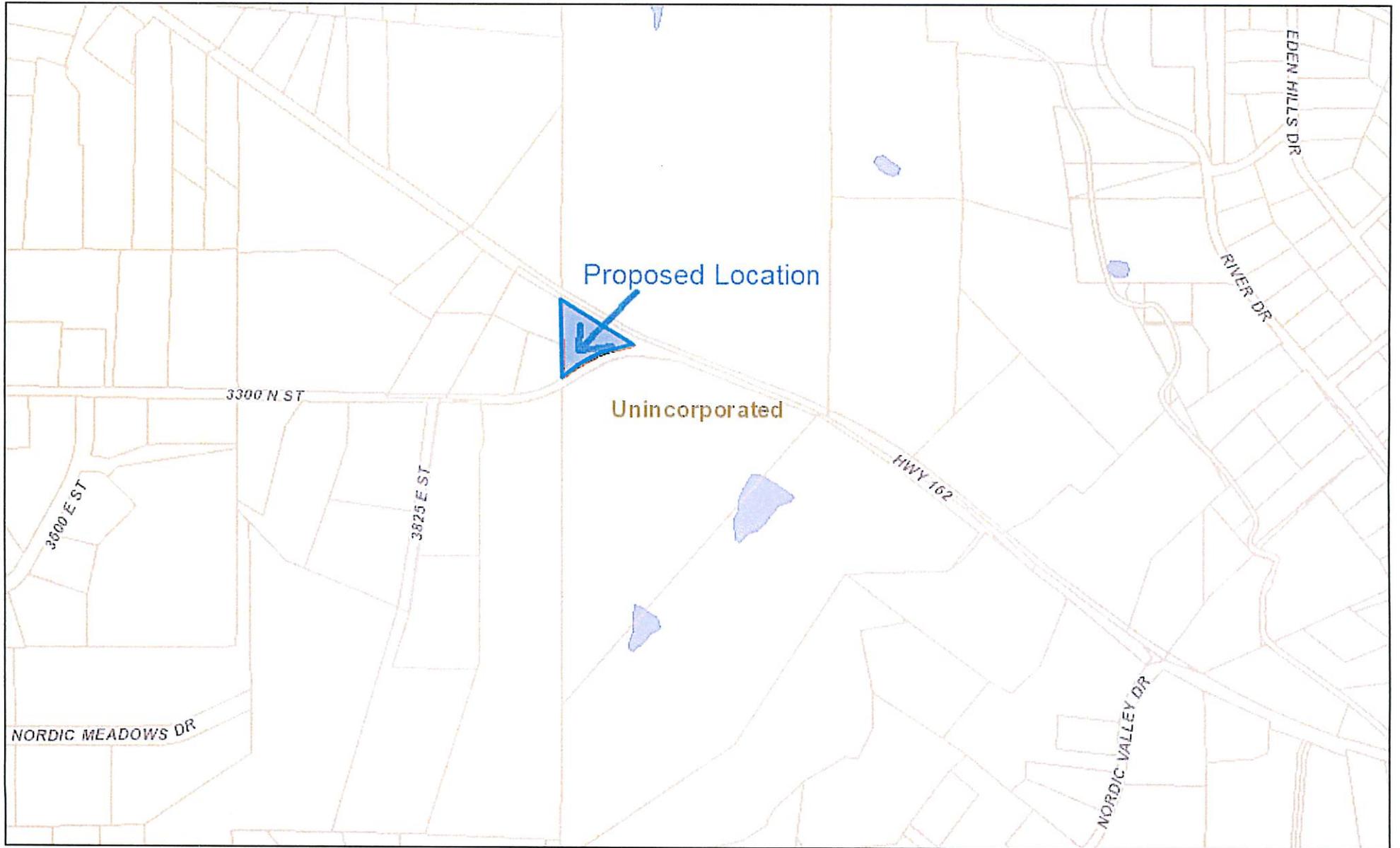
So while variances should be perhaps sparingly delivered, protecting the general public from a parade of non-conformities destroying the zoning code that enables peaceful and harmonious living, there is room for accommodation as provided in by Statute and Ordinance. Mr. Harris' property qualifies for this remedy and a variance should be granted to permit the garage to remain where it has existed for nearly 30 years.

Froerer & Associates, PLLC



Zane S. Froerer

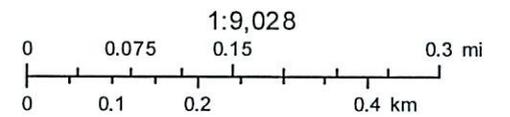
Location Map



May 28, 2015

Street Labels

City Labels



Land Use Permit
(In Accordance With
Chapter 30-1 of the
Uniform Zoning Ord.)

APPLICATION
TO

Conditional Use Permit
(In Accordance With
Chapter 22C-2 of the
Uniform Zoning Ord.)

WEBER COUNTY PLANNING COMMISSION

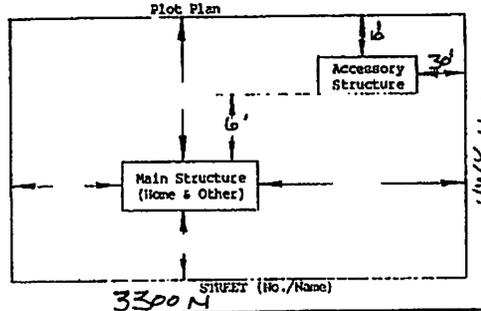
OGDEN, UTAH

This Application Becomes A Land Use/Conditional Use Permit
When Signed by the Planning Dept. and Applicant

Date of Application AUG 2, 1991 Permit # 205-91
 Owner of Property DONALD HARRIS Phone 745-2323
 Mailing Address 3912 E. 3300N City EDEN
 Business Name Address _____ Business Lic. No. _____
 General Contractor SELF Phone _____
 Business Address _____
 Bldg. Address 3912 E. 3300N
 Address Certificate No. _____ Assessor's Parcel No. 22-037-0071
 Lot No. _____ *Subd. Name & Number _____
 Property Location SW SE 4 Of Section No. 28 T. 7N R. 1E
 Total Property Area - In Acres of Sq. Ft. 1.01 Total Bldg. Site Area Used 152
 Proposed Use of Structure/Land Other Personal Storage
 Previous Usage of Land or Structure (Past 3 years.) BOA
 Dwell. Units Now on Lot _____ *Accessory Bldgs. Now on Lot _____
 Type of Improvement/Kind of Const. Build Remodel Convert Use Addit. Sign
 No. of off-street parking spaces: Req'd (Ord. 27-80) Covered _____ Uncovered _____

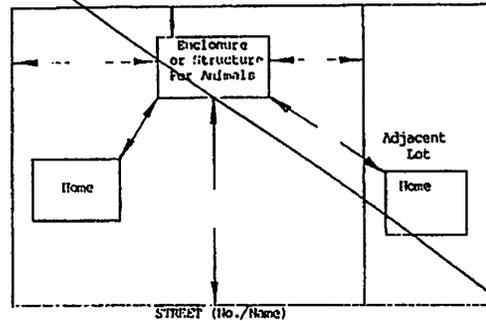
MINIMUM YARD SETBACKS IN FEET FOR MAIN AND ACCESSORY STRUCTURES

ZONE <u>A-1</u>	MINIMUM LOT AREA <u>40,000^{sq}</u>	MINIMUM LOT WIDTH <u>150 FT</u>
-----------------	---	---------------------------------



MINIMUM YARD SETBACKS IN FEET FOR ENCLOSURE OR BLUXS. FOR ANIMALS

ZONE	MINIMUM LOT AREA	MINIMUM LOT WIDTH
------	------------------	-------------------



The following conditions, as required by County Ordinances must be adhered to:
Storage to be personal equipment only. No business equipment used or stored is permitted.

NOTICE TO APPLICANT

Proposals for the installation of an individual water supply and for a sanitary waste disposal system (septic tank) for a person occupied building must be approved by the County Health Officer prior to installation.

Planning Dept. Signature of Approval David C. Zuber Date 8/2/91

This permit becomes null and void if use or construction authorized is not commenced within 180 days for Land Use Permit/1 Yr. for Cond. Use or a zone change affecting this property. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this land use will be complied with whether specified herein or not.

The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating land use or construction. I hereby acknowledge that it is a violation of the Zoning Ordinance to reduce the above described property below the minimum lot and width specified.

I make this statement under penalty of perjury. I hereby agree to meet the requirements as specified on this permit issued to the owner of land as signed below.

Signature of Contractor or Other Authorized Agent _____ Date _____
 Signature of Owner or Authorized Agent Donald Harris Date 8/2/91

- | | | | | |
|-------------------------------------|-------------------------------------|--|-------|---|
| Yes | No | | (1) | Is property part of an approved sub.? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | | (2) | Is there a home or other bldg. presently on the property? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | | (3) | Is certification statement needed for storage bldg. or large private garage? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (4a) | Below 4218 Contour (G.S.L.)? (Nor. 7-86) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (4b) | Is property in Wetlands? (National Act) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (4c) | Is property in Fed. flood zone? (Ord. 3-75) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (5a) | Is Fire Hydrant Fee Required? (Ord. 1-88) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (5b) | If yes, Wtr. Dist. _____ Fee Req. \$ _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (6) | Is Property required to join U.S.A.#1? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (7) | Is property in violation of sub. ord. because of prior non-compliant divisions? (Title 26) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (8a) | Is property on public road? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (8b) | Public by right of use road? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (8c) | Private Road, R.O.W. approved by BOA? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (9) | Is road widening (OC Deed) req'd? (Ord.) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (9b) | Are road improvements substandard? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (9c) | Is Agreement acknowledging substandard road R.O.W. and/or improvements required? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (10) | Does property front on official map or masterplan designated arterial or collector road for additional front yard setback? (Ord. 23-21 & 23-18) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (11) | Is a deed required for street widening? (Ord.) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (12a) | Is Curb, Gutter, & Sidewalk required? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (12b) | Is it to be deferred by Def. Agreement? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | | (13) | Does property meet zoning area and frontage requirements? Area, <u>84</u> -Pt./Acres <u>1.91</u> Frontage <u>250</u> ft. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (14) | Hillside Review Board approval required? (Ord. 3-71) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (15a) | Is property to be connected to a public sewer? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (15b) | Is connection fee to OSID Paid? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (15c) | Amount of connection fee to U.S.A. #1 sewer to be paid with Bldg. Permit \$ _____ |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | | (16) | Culvert size _____ |

Assignment by County Engineer
 Size _____



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 for lot area, lot width, and setbacks for two parcels in Ogden Canyon with a boundary adjustment.

Agenda Date: Thursday, June 18, 2015

Applicant: Paul Fifield and Andrew Deckman

File Number: BOA 2015-04

Property Information

Approximate Address: 398 Ogden Canyon and 400 Ogden Canyon

Project Area: 0.38 acres

Zoning: Forest Residential Zone (FR-1)

Existing Land Use: Residential

Proposed Land Use: Remain as existing

Parcel ID: 20-028-0028 and 20-028-0016

Township, Range, Section: T6N, R1E, Section 18

Adjacent Land Use

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

Staff Information

Report Presenter: Ben Hatfield
bhatfield@co.weber.ut.us
801-399-8766

Report Reviewer: SW

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 13 (Forest Residential FR-1 Zone)

Background

The applicants are requesting a variance for a reduction to the lot width and lot area requirements of the Forest Residential FR-1 Zone and any other setback requirements which may result from a shift of property lines. The application (Exhibit A) and an explanation of the request (Exhibit B) have been prepared by the applicant. Exhibits C and D are two surveys of the property. Exhibits E and F are plats of the County ownership plats in the area for 1966 and 2015.

As stated in Exhibit A two homes had been built on Lot 16 as part of the Hermitage Subdivision, one in 1922 and another in 1933, both prior to the adoption of modern zoning code requirements. In researching the homes, it was found that by 1966 Lot 16 had been divided into Lot 16A and 16B. In 2004 both boundaries had been altered which was reflected by a survey by Mountain Engineering labeled "Boundary Adjustment Lot 16, Hermitage Subdivision (Fifield – Barnes Properties)." This reconfiguration left one parcel slightly smaller than it was before, and reduced the setback distance to the existing home.

In reviewing the survey it appears that the property line described prior to 1966 went through the home of Lot 16B (Fifield). A separate survey done in 2001 also shows that property line placed in the same location. It appears that both owners worked out a placement of a new property line which was nearly an equal distance between each home, and left an appropriate area for vehicle parking. This new property line created the following:

	<u>Area</u>	<u>Width in feet at the front lot line</u>	<u>Setbacks in feet</u>
Lot 16A	0.123 acres	50.17	Front 12.0, Rear 17.66, Sides 17.33 and 7.0
Lot 16B	0.262 acres	79.83	Front 36.5, Rear 00.83, Sides 15.25 and 6.5

Access to the two homes historically was through an easement to the northwest. However, the placement of this easement was not followed and conflicted with the placement of the home on an adjacent property. The agreed upon new alignment was also established in 2004 with the plat as a 14 foot right of way from the south side of the lots and running westward to a private road.

The variance request is based on two main factors. First, the homes and properties were historically built prior to zoning standards for lot width, lot area, and setbacks. A placement of a property line through a home not only causes disputes among owners, but also causes troubles in related industries which rely on code compliance such as finance, title, insurance, and real estate. Second, there are difficult boundary conditions surrounding the properties including steep slopes and historically small lots compared to the current one acre standard (FR-1 Zone). Lot 16 is bounded to the north by an Ogden City water supply pipeline running through an old right of way from the former Utah Light and Power Company. The area to the south is where the Hermitage hotel and grounds had been, thereby making it difficult in adjusting the affected properties (Lot 16).

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. Literal enforcement of the Land Use Code would require an undesirable result. These structures were built prior to zoning regulations and the agreed upon Boundary Adjustment causes no issues to surrounding properties. This request is the best scenario to correct an error which was in place prior to zoning regulations.
- b. The special circumstances attached to this property are the historic nature of the lots and divisions of land created prior to the minimum zoning requirements. The placement of the described properties was in error and is poor in relation to the home locations.
- c. Zoning gives the property owner rights to construct a dwelling unit. Based on the current situation homes would need to be removed as they are not fully on the property described by deed.
- d. The General Plan indicates this area should allow and be preserved for single-family dwellings; no changes are proposed.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but to correct a mistake that occurred many years ago and render existing lot width, lot area, or setback requirements legal. Granting the request would serve as substantial justice to allow the current owners enjoyment of their property as has been done for many years.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-1 Zone and granting this request will not increase the number of existing dwelling units in the area. 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 boundaries continue to following the agreed upon 2004 survey (Boundary Adjustment Lot 16, Hermitage Subdivision).
- Meet all other applicable review agency requirements.

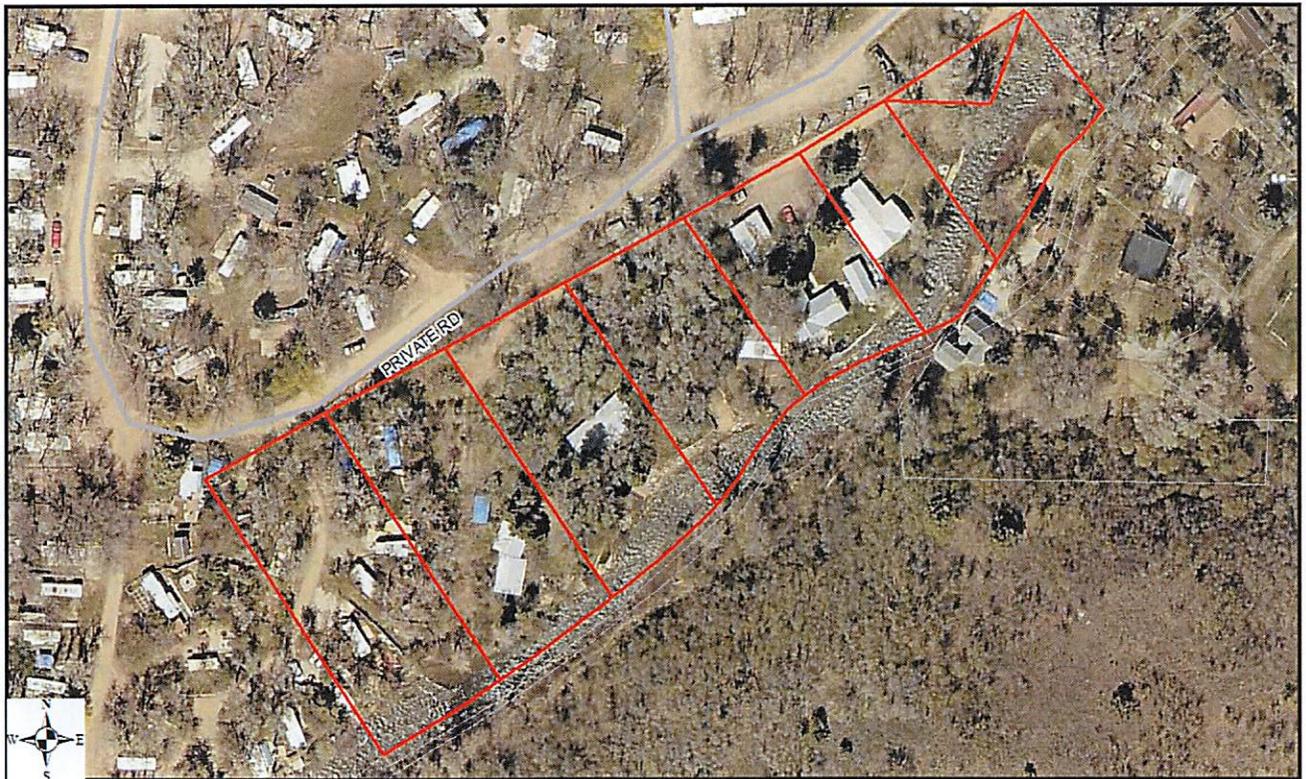
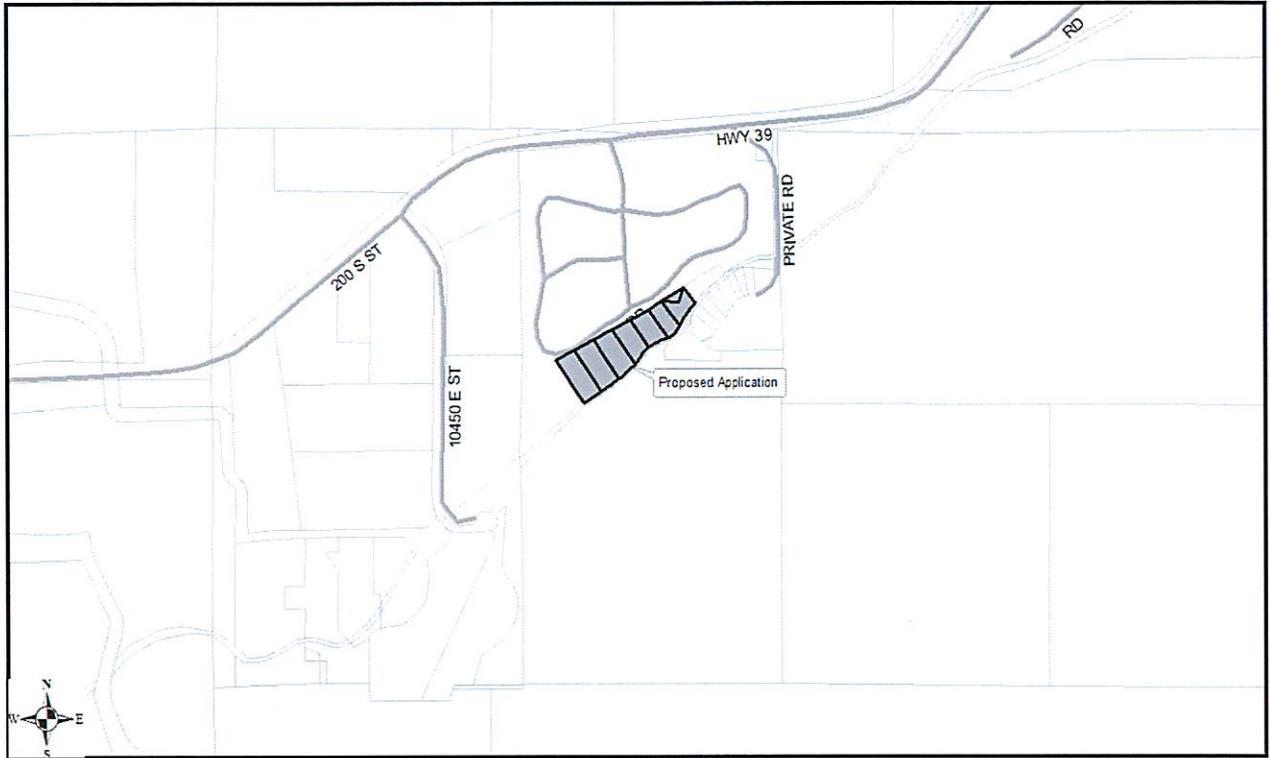
Staff Recommendation

Staff recommends *approval* of the variance for Lot 16A and Lot 16B in the Hermitage Subdivision for a reduction to the lot width, lot area, and setbacks as shown on the 2004 Boundary Adjustment Lot 16, Hermitage Subdivision plat. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Application
- B. Applicant's narrative
- C. 2004 survey Boundary Adjustment Lot 16, Hermitage Subdivision
- D. 2001 survey discovering the error
- E. 1966 ownership plat
- F. 2015 ownership plat

Location Map



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 4/29/15	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) Paul Field		Mailing Address of Property Owner(s) 400 Ogden Canyon & 398 Ogden Canyon	
Phone 801-393-6229	Fax		
Email Address pals-06@comcast.net		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail cell 801-721-9118	

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Same		Mailing Address of Authorized Person	
Phone	Fax		
Email Address		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

- A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance
- A variance request:
 - Lot area
 Yard setback
 Frontage width
 Other: _____
- A Special Exception to the Zoning Ordinance:
 - Flag Lot
 Access by Private Right-of-Way
 Access at a location other than across the front lot line
- An Interpretation of the Zoning Ordinance
- An Interpretation of the Zoning Map
- Other: _____

Property Information

Approximate Address 398 and 400 Ogden Canyon		Land Serial Number(s) 20-028-0028 (Decker) 20-028-0016 (Field)	
Current Zoning FR-1			
Existing Measurements		Required Measurements (Office Use)	
16-A 16-B			
Lot Area 0.123 0.262	Lot Frontage/Width 50.17 91.59	Lot Size (Office Use) 1 Acre	Lot Frontage/Width (Office Use) 150 feet
Front Yard Setback 5.120 36.5	Rear Yard Setback 32.41' w/ 5' 10" extra 16.5	Front Yard Setback (Office Use) 30 feet	Rear Yard Setback (Office Use) 30 feet
Side Yard Setback 17.33 6.6	Side Yard Setback 7.0 15.25	Side Yard Setback (Office Use) 20 feet	Side Yard Setback (Office Use) 20 feet

Exhibit
A-1

Applicant Narrative

Please explain your request.

See submitted Narrative of 2004 Survey.

Variance Request

Explain how the variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.

*Exhibit
A-2*

Variance Request (continued...)

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

Property Owner Affidavit

I (We), _____, 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.

Paul Ziefeld
(Property Owner)

(Property Owner)

Subscribed and sworn to me this _____ day of _____, 20 _____,

(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
A-3

As owners of Lots 16A (Deckman) and 16B (Fifield) of the Hermitage Subdivision we are requesting an approval of a variance to the standards of the Weber County Land Use Code regarding setbacks (front, rear, and side), width, and area.

Although we respect the zoning standards that are being set within the community, we feel that there are circumstances found with these lots that are unique to the history of the homes and property. They are atypical to the zoning standards and existed in part prior to the establishment of these standards.

The homes on Lots 16A (1922) and 16B (1933) were first built and part of the original development of the Hermitage Hotel and Resort and were both on Lot 16. By 1966 the two homes had been separated roughly in half into two properties.

A survey was conducted of Lot 16A in 2001 prior to the sale of the home, in which showed the common lot line between the two lots to be through a portion of the home on Lot 16B. This was alarming to both owners who sought litigation to resolve the discrepancy. A separate surveyor was consulted, who worked with county officials in determining a resolution. The two owners eventually agreed to a Boundary Adjustment of Lot 16, Hermitage Subdivision in October of 2004. This new survey creatively adjusted the common lot line between the two homes trying to keep an equal distance from each homes.

Widths, setbacks, and lot areas were assumed based on the new configuration. The sale of the home was then conducted, and both parties have been satisfied with the arrangement for the past 11 years.

In the spring of 2015 the Weber County Planning Division staff researched Lot 16B and found no evidence resulting from our meetings of an approval from the Planning Division to reduce the area, width, and setbacks for these lots.

Thus we are requesting that due to the particular and unique circumstances of the properties, based on the historic and boundary conditions, a variance to the FR-1 Zone standards be considered. As owners we are satisfied with the current layout of our homes, yards, and access in regard to the reconfigured property boundaries.

Sincerely,

Paul Fifield Lot 16B

Andrew Deckman Lot 16A

Exhibits
B

Exhibit D

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO DEFINE THE EXISTING PROPERTY FOR LAURA KINSER AND TO SHOW EXISTING ENCROACHMENTS. THE PROPERTY DOCUMENT WAS FILED BY DEED WHICH WAS PLACED ON THE GROUND USING THE ORIGINAL SURVEYOR'S PLAT OF THE HERMITAGE OF OGDEN CANYON. NO ORIGINAL COPIES OF THE HERMITAGE WAS FOUND. PLACEMENT OF THE HERMITAGE WAS THROUGH A RETRACED OF SEVERAL INTERFERENT SURVEYS PERFORMED ON THE HERMITAGE PROPERTY AND THE FOUND SURVEY EVIDENCE FROM SAID SURVEYS. NORTHWEST OF OUR PARCEL GREAT BASH ENGINEERING PERFORMED A SURVEY OF LOTS 3 AND 6 OF THE HERMITAGE IN 1981, FOR FRED FROEDER. HE FOUND THREE GREAT BASH REBAR AND CAPS ON THE NORTHEAST CORNER AND THE SOUTHWESTERLY MOST CORNER OF SAID LOT 6. GREAT BASH ENGINEERING ALSO PERFORMED A SURVEY IN 1974 PLACING STATE HIGHWAY 39 ON THE CROCKING WHICH HE USED TO PLACE THE FROEDER SURVEY. PLACEMENT OF THE HERMITAGE IN THE NORTHEAST DIRECTION WAS FIXED BY A SURVEY PERFORMED BY LANDMARK SURVEYING IN 1994, (LOCALITY SURVEY PLAN NO. 1218). TWO FOUND REBAR ON THE WEST LINE OF THE PROPERTY SURVEYED BY SAID LANDMARK WERE USED. THIS PLAT HAS NOT FILED BARELY AFTER SURVEY IN ANTICIPATION OF PROPERTY LINE AGREEMENTS AND ADJUSTMENTS.

SURVEYOR'S CERTIFICATE

I, RANDALL J. WELFORD, DEPOSE AND SAY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR, HOLDING UTAH LICENSE NUMBER 15847, THAT A SURVEY OF THE PROPERTY DESCRIBED HEREIN WAS PERFORMED BY ME OR UNDER MY DIRECTION, AND THAT THIS PLAT CORRECTLY DEPICTS THE FINDINGS OF THAT SURVEY.

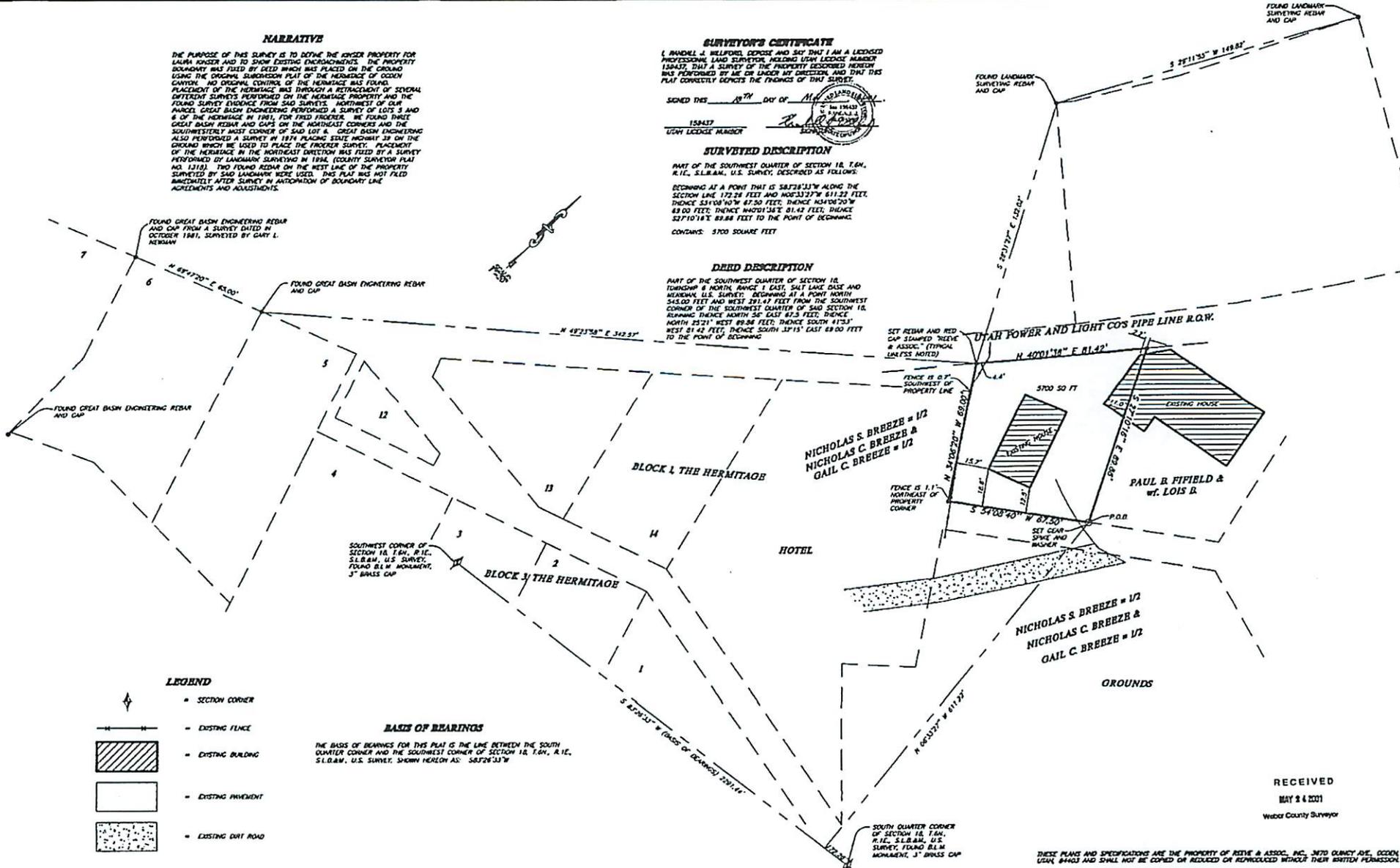
SIGNED THIS 10TH DAY OF MAY, 2021
 15847
 UTAH LICENSE NUMBER

SURVEYED DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF SECTION 16, T.6N., R.1E., S.L.R.A.M., U.S. SURVEY, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS S87°31'31" W ALONG THE SECTION LINE 172.28 FEET AND N02°33'27" E 811.22 FEET, THENCE S31°08'40" W 87.50 FEET, THENCE N43°08'20" W 83.00 FEET, THENCE N40°13'32" E 81.42 FEET, THENCE S27°10'18" E 89.84 FEET TO THE POINT OF BEGINNING. CONTAINS: 5700 SQUARE FEET

DEED DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 1 EAST, SALT LAKE BASIN AND MERIDIAN, U.S. SURVEY. BEGINNING AT A POINT NORTH 545.00 FEET AND WEST 191.47 FEET FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 16, RUNNING THENCE NORTH 2°58' EAST 87.5 FEET, THENCE NORTH 25°21' WEST 89.84 FEET, THENCE SOUTH 41°23' WEST 81.42 FEET, THENCE SOUTH 33°15' EAST 89.00 FEET TO THE POINT OF BEGINNING.



LEGEND

- SECTION CORNER
- EXISTING FENCE
- EXISTING BUILDING
- EXISTING PAVEMENT
- EXISTING DIRT ROAD

BASES OF BEARINGS

THE BASES OF BEARINGS FOR THIS PLAT IS THE LINE BETWEEN THE SOUTH QUARTER CORNER AND THE SOUTHWEST CORNER OF SECTION 16, T.6N., R.1E., S.L.R.A.M., U.S. SURVEY, SHOWN HEREON AS: S87°28'33" W

RECEIVED
 MAY 24 2021
 Weber County Surveyor

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF REEVE & ASSOC., INC., 3670 QUINCY AVE, DORRIN, UTAH, 84043 AND SHALL NOT BE COPIED OR REPRODUCED WITHOUT THEIR WRITTEN PERMISSION.

REVISIONS

1.			
2.			
3.			

PROJECT NO.	DATE BY	APPROVED	REVISION
NO.			
NO.			
NO.			

REEVE & ASSOCIATES, INC.
 a Professional Corporation
 Surveying & Land Planning • Landmark Publications
 3000 QUINCY AVE. STE. #1
 DORRIN, UTAH 84043
 (435) 821-3200 FAX (435) 821-8908 (435) 752-3203 FAX (435) 742-2798

RECORD OF SURVEY

KINSER PROPERTY
 PART OF THE SOUTHWEST QUARTER OF SECTION 16, T.6N., R.1E., S.L.R.A.M., U.S. SURVEY, UTAH
 MAY, 2021

SHEET
1
 SHEETS

THE HERMITAGE

EDEN & HUNTSVILLE DISTRICTS

TAXING UNIT: 28

SCALE 1" = 60'

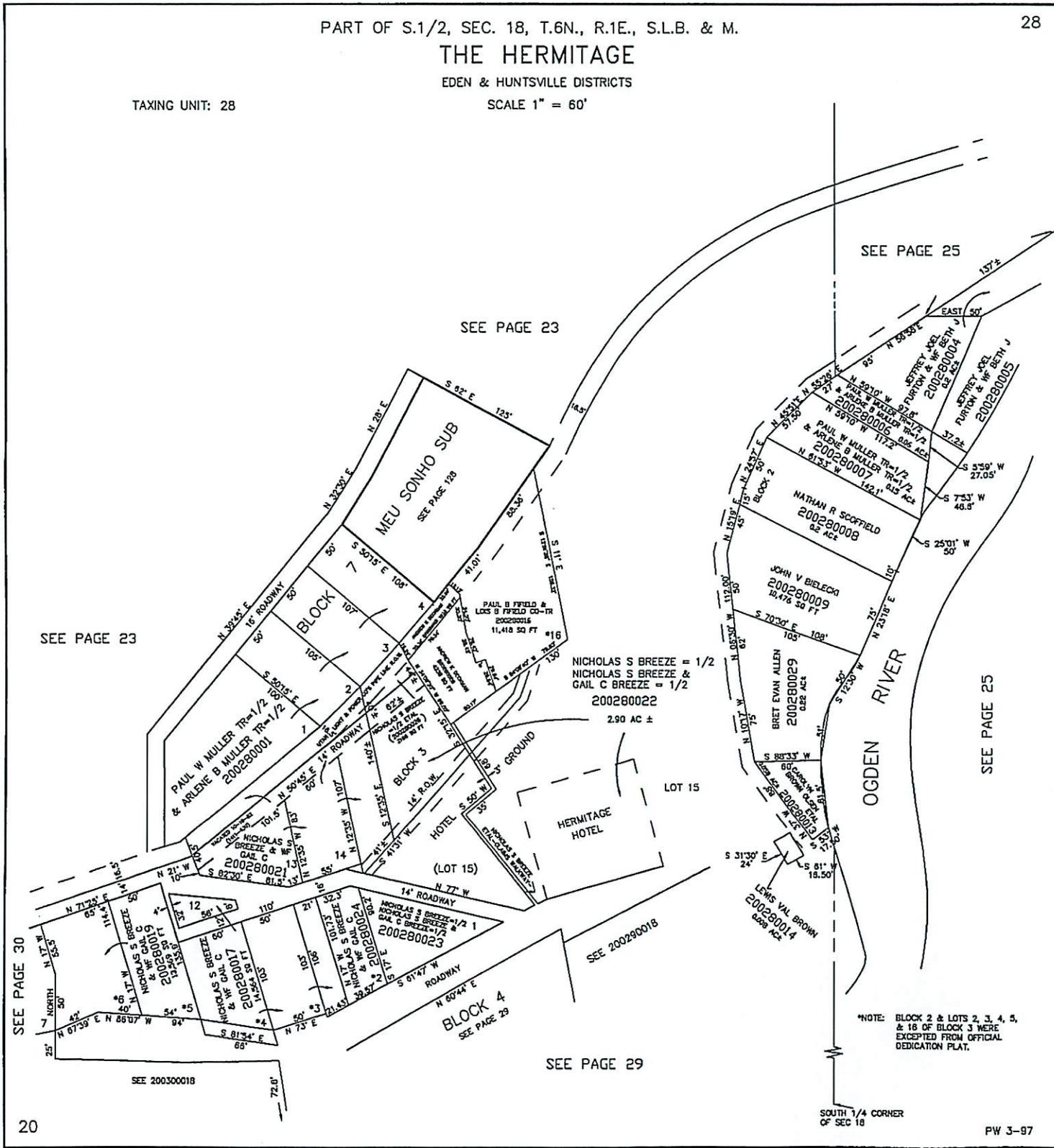


Exhibit F