

**Land Use Hearing Officer**  
**Public Meeting Agenda**  
**Tuesday, February 9, 2016 1:00 P.M.**

**LOCATION: SALT LAKE COUNTY GOVERNMENT CENTER**  
**2001 SOUTH STATE STREET, NORTH BUILDING**  
**KEARNS CONFERENCE ROOM, SUITE N3-600**

*REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED UPON RECEIPT OF A REQUEST WITH 5 WORKING DAYS NOTICE. PLEASE CONTACT WENDY GURR AT 385-468-6707. TTY USERS SHOULD CALL 711.*

The purpose of the Land Use Hearing Officer's Meeting to hear applicant and public comment, as well as agency and staff recommendations, prior to making a decision on applications filed with Salt Lake County.

The Land Use Hearing Officer shall: act as an appeal authority for zoning decisions applying this title as provided in Section 19.92.050 and conditional use decisions by a planning commission; hear and decide the special exceptions to the terms of the zoning ordinance set forth in Section 19.92.060; hear and decide variances from the terms of the zoning ordinance; and, hear and decide applications for the expansion or modification of nonconforming uses.

**PUBLIC HEARINGS**

**29817** – Mr. Bryan Baggaley is appealing the decision of the Millcreek Township Planning Commission meeting from December 16, 2015 related to repair or replacement of the failing retaining wall on the east side of the property. **Location:** 2258 East Lambourne Avenue

**ADJOURN**

This page intentionally left blank



**OFFICE OF TOWNSHIP SERVICES**

Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

[www.pwpds.slco.org](http://www.pwpds.slco.org)

January 6, 2016

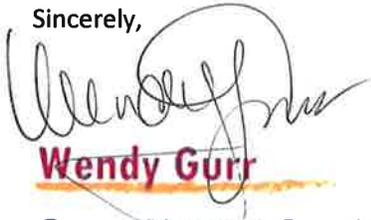
Bryan Baggaley  
2258 East Lambourne Avenue  
Salt Lake City, Utah 84109

Regarding: Bryan Baggaley's Appeal of Planning Commission Decision on File # 29403  
2258 East Lambourne Avenue

Salt Lake County is in receipt of your application to appeal the Millcreek Township Planning Commission's decision on December 16, 2015 for Application #29403, approving the subdivision application for the Lambourne Estates Subdivision. A hearing before the Salt Lake County Land Use Hearing Officer, James Harward, has been scheduled for Tuesday, February 9, 2016, at 1:00 p.m. in room N3-600 located in the north building of the Salt Lake County Complex located at 2001 South State Street, Salt Lake City, Utah. You must submit written arguments or "a brief" on or before Tuesday, January 19, 2016, to the Land Use Hearing Officer at the following address: James Harward, 10542 South Jordan Gateway, Suite 300, South Jordan, UT 84095-3937. Your written arguments should state with specificity the reasons why you consider the Millcreek Township Planning Commission's decision to be in error. Copies of your written arguments, together with a mailing certificate identifying all parties you have served with a copy of your written arguments, shall also be provided to the Salt Lake County District Attorney's Office, attention Chris Preston, 2001 S. State Street, #S3-600, Salt Lake City, Utah 84190-1210, and to Salt Lake County Planning and Development Services Hearing Officer Coordinator, attention Wendy Gurr, 2001 S. State Street, #N3600. Salt Lake County shall have the opportunity to submit a written response by Tuesday, January 26, 2016. If you wish, you may submit a written reply by Tuesday, February 2, 2016.

As provided by County Ordinance, 18.08.040, the Hearing Officer shall determine whether the Millcreek Township Planning Commission's decision was arbitrary, capricious, or illegal, and his determination shall be based solely on the record of the proceedings before the Millcreek Township Planning Commission and the written and oral argument presented by both sides. The written record, consisting of draft written minutes, and all written documents submitted to the Millcreek Township Planning Commission regarding Application #29403, is enclosed with this letter. The audio recording of the December 16, 2015 planning commission meeting is also a part of the record on appeal. If a party desires to transcribe the audio recording it may do so at its own expense, and a certified copy of the transcript shall be provided all parties. The audio recording related to Application #29403 is available on the Utah Public Notice Website at <http://www.utah.gov/pmn/index.html> by going to the December 16, 2015 entry for Salt Lake County, Millcreek Township Planning Commission. The appellant has the burden of proving that the Millcreek Township Planning Commission's decision is arbitrary, capricious, or illegal. The Hearing Officer does not have the authority to waive or modify the County's subdivision ordinance. You may access a copy of the subdivision ordinance at <http://library.municode.com/index.aspx?clientId=16602>.

Sincerely,



**Wendy Gurr**

County Planning Coordinator



TOWNSHIPS

o. 385.468.6707

**[slco.org/townships](http://slco.org/townships)**

Cc: James Harward, Salt Lake County Land Use Hearing Officer  
Zachary Shaw, Salt Lake County District Attorney's Office  
Chris Preston, Salt Lake County District Attorney's Office  
Bryan Baggaley, 2258 East Lambourne Avenue, Salt Lake City, Utah 84109  
Todd Draper, Salt Lake County Planner  
file



**OFFICE OF TOWNSHIP SERVICES**

Planning and Development Services  
2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050  
Phone: (385) 468-6700 • Fax: (385) 468-6674  
[www.pwpds.slco.org](http://www.pwpds.slco.org)

**MEETING MINUTE SUMMARY**  
**MILLCREEK TOWNSHIP PLANNING COMMISSION MEETING**  
**Wednesday, December 16, 2015 4:00 p.m.**

**Approximate meeting length:** 3 hours 57 minutes

**Number of public in attendance:** 25

**Summary Prepared by:** Wendy Gurr

**Meeting Conducted by:** Commissioner Janson

**\*NOTE:** Staff Reports referenced in this document can be found on the State and County websites, or from Salt Lake County Planning & Development Services.

**ATTENDANCE**

Commissioners	Public Mtg	Business Mtg	Absent
John Janson (Chair)	x	x	
Tom Stephens (Vice Chair)	x	x	
Geralyn Parker Perkins	x	x	
Ann Ober	x	x	
Shawn LaMar	x	x	
Andrew Gruber	x	x	
Pam Juliano	x	x	
Jon Jemming (Alternate)			x
Julia Tillou (Alternate)			x

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Max Johnson	x	x
Todd Draper	x	x
Spencer Hymas	x	x
Curtis Woodward	x	x
Tom Zumbado	x	x
Jeff Miller	x	x
Chris Preston (DA)	x	x
Alison Weyher		x

**PUBLIC HEARINGS**

**Hearings began at – 4:18 p.m.**

**29403 – (Continued from 11/18/2015)** - Bryan Baggaley requests preliminary plat approval for the proposed 2-lot Lambourne Estates subdivision. **Location:** 2258 East Lambourne Ave. **Zone:** R-1-8. **Community Council:** Canyon Rim. **Planner:** Todd A. Draper

*County Township Services Planner Todd Draper provided an analysis of the Staff Report.*

*Commissioner Stephens asked how this application meets the requirements for a subdivision. Mr. Draper said the Planning Commission has passed off the policies for a subdivision, and it allows*

*this portion to be granted by an easement. Access to the rear will be granted by an easement twenty-four feet wide and four feet of landscape along the side. Commissioner Janson asked about the amount of discretion. County Counsel Chris Preston an application for a subdivision as long as it complies with the ordinance, the applicant is entitled to approval.*

### **PUBLIC PORTION OF MEETING OPENED**

**Speaker # 1:** Applicant

**Name:** Bryan Baggaley

**Address:** 2258 East Lambourne Avenue

**Comments:** Mr. Baggaley said he lives at the home and he has have been working on this project for over a year they've been working on the project for over a year and the home is consistent with the subdivision. They did get a permit to build a garage and have he has people lined up to begin working on it. It is a two car wide garage and will allow a third. He believes they've met all the zoning requirements and ordinances for the subdivision and is consistent with the other subdivisions in the area. There are many subdivisions similar in the area and this provides opportunity for nice, new homes to be built. They removed dangerous homes and build something safe. He believes this is an improvement.

### **PUBLIC PORTION OF MEETING CLOSED**

**Motion:** To Approve application #29403 as presented with Staff Recommendations.

**Motion by:** Commissioner LaMar

**2<sup>nd</sup> by:** Commissioner Juliano

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

File # \_\_\_\_\_

# Land Use & Development Application

- FCOZ     RCOZ     DWSP     RCOZ     Watershed     Over Pressure     Magna Main  
 Natural Hazards     Other APPEAL OF PLANNING COMMISSION DECISION

Zone: \_\_\_\_\_ Community Council: \_\_\_\_\_ Planner: \_\_\_\_\_  
 Parent File #: \_\_\_\_\_ Date: \_\_\_\_\_

Property Address: 2258 E LAMBOURNE AVE Parcel #: \_\_\_\_\_  
 Name of Project LAMBOURNE ESTATES SUBDIVISION Property Acreage: 0.44  
 Please describe your request: THIS IS AN APPEAL OF THE PLANNING COMMISSION DECISION ON DEC 16, 2015 REGARDING CONDITION #2 RELATED TO THE SUBDIVIDE.

<p><b>New Development:</b></p> <input type="checkbox"/> Conditional Use <input type="checkbox"/> Permitted Use <input type="checkbox"/> Subdivision # lots: _____ <input type="checkbox"/> PUD #lots: _____	<p><b>Modify an Existing Development:</b></p> <input type="checkbox"/> Change Conditions of Approval <input type="checkbox"/> Change the Site Plan <input type="checkbox"/> Condo Conversion <input type="checkbox"/> Lot Consolidation <input type="checkbox"/> Lot Line Adjustment <input type="checkbox"/> Mobile Store <input type="checkbox"/> Signs <input type="checkbox"/> Billboards	<p><b>Other:</b></p> <input type="checkbox"/> Exception Request <input type="checkbox"/> General Plan Amendment <input type="checkbox"/> GRAMA (Records Request) <input checked="" type="checkbox"/> Land Use Hearing <input type="checkbox"/> Non-Conforming <input type="checkbox"/> RCOZ Appeal (Option C) <input type="checkbox"/> Research Request <input type="checkbox"/> Re-zone <input type="checkbox"/> Right-of-Way Improvement Permit <input type="checkbox"/> Vacate a Street
--	--	---

Is a key or gate code required to access the property?  Yes  No If yes, code: \_\_\_\_\_  
 (or provide driving directions to property):

**APPLICANT'S NAME:**

First: BRYAN Last: BAGGALEY Initial: \_\_\_\_\_

Address: 2258 E LAMBORNNE City: SLC State: UT Zip: 84109

Phone: 801-755-6399 Cell: \_\_\_\_\_ Email: \_\_\_\_\_

**Property Owner(s):**

First: BAGGALEY ENTERPRISES LLC Last: \_\_\_\_\_ Initial: \_\_\_\_\_

Address: SAME City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Email: \_\_\_\_\_

**Professional(s):**  Engineer  Architect  Other

Company: \_\_\_\_\_ Contact: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Email: \_\_\_\_\_

\*NOTE: all correspondence will be sent to the applicant's address:

To facilitate Salt Lake County's land use notice and review process, the undersigned hereby authorize the County to reproduce this application and all documents attached to the application for staff, officials, and the interested public:

Applicant's Signature: 

Date 12-23-15

Date: 12/23/2015

Re: Application to subdivide Property at 2258 E Lambourne Ave in Salt lake City Utah. 84109.

Purpose of Letter: Appeal of decision made by Planning Commission on Dec 16, 2015. This appeal is specific to condition #2 – “Complete construction related to repair or replacement of the failing retaining wall on the east side of the property (or a bond guaranteeing its completion) prior to recordation of the final plat”

Attention: Land Use Review Committee.

The application to subdivide my land at 2258 E Lambourne Ave in Salt Lake City was recently approved by the Planning Commission on Dec 16, 2015. The approval by the planning commission was subject to several conditions. This is an appeal of condition #2 required by the planning commission.

Condition #2) “Complete construction related to repair or replacement of the failing retaining wall on the east side of the property (or a bond guaranteeing its completion) prior to recordation of the final plat”

I am appealing this condition on three grounds:

- 1) The wall in question has been surveyed to be on the neighboring property and is not my property
- 2) The timing, manner, and reasoning in which the Building Officials have addressed the retaining wall in question does not appear to be consistent with the requirements of the building code.
- 3) There is no basis for conditioning the subdivision of a property on the repair of my neighbor’s wall.

The following will address these three Items:

ITEM #1 – Subject wall is not on my property.

During the review period for my submission to subdivide the subject property Brent Stephenson performed a site visit to my property and determined that the wall in question was failing. A subsequent Compliance Order was issued to the owners of both properties (Exhibit A). The Compliance Order references several sections of the International Building Code.

I was not present during the site visit but it does not appear that Brent Peterson took the time during the survey to seek the boundary stakes that had been set by my surveyor and determine whether the wall was on my property or the adjacent property. To my knowledge no other person from the county has come to the property since the time that Mr Peterson observed the wall.

- 1) A site boundary and topo Survey was completed and stamped by a licensed surveyor as part of the submission to the county. The site topo does not indicate a retaining wall within the survey boundaries. (Exhibit B)
- 2) The surveyor who performed the topo and boundary survey returned to the site after the issue regarding the wall had arisen and wrote a letter stating that the wall in question was constructed on the neighboring property. (Exhibit C)
- 3) I discussed the findings of the survey with several people in the county offices including Jay Sisson, Brent Stephenson, and Mr Baptist and was told that the stipulation that the wall be repaired would remain even if the wall was not on my property. I sent Mr Baptist an email on Nov 2, 2015 requesting what documentation would be required for me to show that I had no ownership of the wall in question. Mr Baptist did not respond to my email. (Copy of email is Exhibit D)
- 4) My Attorney sent a copy of the surveyor's letter to Zachary Shaw and David Pena in the county attorney's office and requested that they review the letter with Mr Baptist. Mr Baptist indicated to me that this review did not take place. (Email to Shaw and Pena is Exhibit E)
- 5) The survey Boundary markers on site clearly indicate that the base of the wall in question is on the neighbor's side of the property line. The wall itself is also behind (to the neighbor's side) an old fence line which has defined the property boundaries for 50+ years and appears to predate the construction of the wall. The posts of the fence line are generally directly in line with the surveyed property line within an inch. To my knowledge, no one from the county has performed a site observation to investigate the survey boundary markers despite invitations.

I believe that adequate documentation has been made available to the county to ascertain that the wall in question is not on my property and is not my ownership. The surveyed property line is the standard that is legally recognized to determine ownership of land and improvements on the land excepting the existence of other written agreements. The requirement by the county that I repair or replace the wall in question puts me in a position where I must either trespass on my neighbor's property to repair the wall – or sue my neighbor to force them to bring the wall in question into compliance with the building code.

Suing my neighbor to enforce the repairs of the wall as required by the building code would be an act of enforcement of the code. Section 104 of the International Building Code Paragraph 1 states "DUTIES AND POWERS OF THE BUILDING OFFICIAL - The building official is hereby authorized and directed to enforce the provisions of this code". I do not believe that it is appropriate for the building official to require me to take enforcement action upon my neighbor in his place. Unless the Building Official, or the neighboring property owner can produce competing documentation from a licensed surveyor or can provide other legal documentation of ownership, I believe that the Building Officials enforcement against my property and subdivision is misplaced. I believe that it is the Building Officials duty to protect

my interests as a citizen and enforce the provisions of the Building Code on the appropriate land owner.

ITEM #2 – Manner in which the Building Officials have addressed the wall does not appear to be consistent with the Building Code.

Working with Mr Baptist and with the neighboring property owner it has become clear that the previous owner of my property, Mr Salt, has been filing complaints with the county about this retaining wall for 20+ years. My neighbors indicate that Mr Baptist or other county officials have been repeatedly called out to the site beginning in 1993. At one point Mr Salt apparently met Mr Baptist with a television crew asking him to explain his lack of enforcement regarding the wall and Mr Baptist subsequently ended up on the local television news over this issue. Mr Baptist has apparently been out to the site so many times and has such an intimate familiarity with the retaining wall issue at this location that he wrote and signed the non-compliance order even though he personally has not set foot on the property in the 1 ½ years that I have owned the property.

Mr Baptist has also repeatedly told me that the issues regarding the retaining wall are a “civil matter” However, it seems to me that a violation of the building code is not a mere civil matter. This is particularly true when that violation is deemed to be a hazard warranting the issuance of a compliance order and the threat of encumbrance of a title. Section 116.3 of the building code that is referenced by the Compliance Order requires that “The Building Official shall serve on the owner, agent or person in control of the structure a written notice that describes the condition deemed unsafe....” This would certainly imply that it is the building official’s duty to perform reasonable due diligence in determining who the “owner, agent or person in control” of the subject wall is. Reasonable due diligence would likely include reviewing available boundary surveys, observing survey stakes on site in relation to the wall, reviewing letters from surveyors, and responding to my email requesting what documentation I would have to submit to show that I am not the owner of the wall in question.

I have questioned Mr Baptist regarding his reasoning in waiting until I was subdividing the property to file a compliance order. He indicated that subdividing the property was a “trigger” that requires that the wall be repaired for the future owner of the property. I have reviewed the compliance order as well as each of the sections of the building code referenced therein. None of the sections referenced require a “trigger” for the building official to take action in enforcing the code. (Copies of the referenced sections of the IBC are Exhibit F). All of the sections of the IBC code referenced in the notice of non-compliance appear to require action by the building official at the time that the building official is made aware of the hazardous condition. It is clear that the condition of the wall represents a building code violation and a hazard as determined by Mr Baptist based on his personal knowledge of the wall from years ago – a time before I owned the property. Mr Baptists now appears to be taking action to

encumber me in the subdividing and selling my property with the apparent intent to protect a future buyer of the property. It would appear that as Mr Baptist was aware of the violation years ago a compliance order should have been issued at that time which would have protected my interests prior to my purchase of the property from the estate of Mr Salt.

A timely notice of non-compliance may also have encouraged my neighboring property owner to seek redress from responsible (and insured) parties such as builders, previous owners, title insurance, home inspectors, real estate agents etc. The failure of the neighbors to maintain their property and the failure of the county to address these issues in a timely manner is now placing an unreasonable burden upon me and an unreasonable encumbrance on my property.

ITEM #3 – Lack of Basis.

There is no basis for conditioning the subdivision of a property on the repair of my neighbor's safety issue. A building permit or certificate of occupancy may be withheld for health and safety concerns, but the mere subdivision of a parcel will not put anyone's health or safety at risk. The county has not shown that there is any health or safety issue with subdividing the property which merely changes the legal description of the parcel. If the county wishes to protect a future purchaser, then it can condition building permits or certificates of occupancy on the repair of the wall, and thereby protect county citizens. There is no basis in county law for preventing a mere subdivision of a parcel into two parcels based on the neighbor's safety problem.

CONCLUSION

Because of the issues outlined above I am requesting that Condition #2 as noted above be deleted from the approval conditions related to the subdivide of my property. I further request that the county review the survey and other documentation and issue a ruling that the wall is not on my property and as such is not my responsibility. I also request that the county remove the Compliance Order from my property and require that the retaining wall in question be abated by the rightful owner of the wall.



Bryan Baggaley

801-755-6399

EXHIBIT "A"



**OFFICE OF TOWNSHIP SERVICES**

Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

www.pwpds.slco.org

## Compliance Order

November 16, 2015

Baggaley Enterprises LLC  
4114 S 2000E  
Holladay Utah 84124

**Property Location:** 2258 E Lambourne Ave, Salt Lake City Ut. 84109

**Case/Permit Number B15238 – Updated Letter**

---

A determination has been made that you are in violation of the requirements listed below.

The **VIOLATION** and **CODE SECTION(s)** are as follows: **During a routine inspection it was observed that your retaining wall is in failure.** (Section 116 of the IBC) It is noted that the wall is in excess of four feet which requires Building permits and engineering be obtained (section 105.2.4 of the IBC). Please provide a dimensioned site plan showing both the top and bottom of the wall elevations, and structural engineered drawings and calculations for the permitting process. Failure to comply with this Compliance Order may result in a **Notice of Non-Compliance** Violation being attached to the title of the home until such time as the wall is mitigated. (Section 114.2 of the IBC)

If these violations are not corrected within **ten (10) business days**, or resolved by meeting with an authorized representative from Planning & Development Services within **ten (10) business days**, of this notice further action may be taken which could result in the issuance of a **Notice of Non-Compliance on the title.**

If you proceed with this project without resolving these violations, you do so at your own risk.

Questions regarding this Inspection Report may be directed to 385-468-6700.

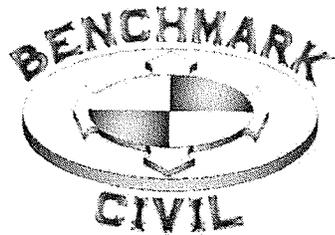
Regards,

**Gregory M. Baptist**

*Stormwater Construction Supervisor*

SALT LAKE COUNTY

EXHIBIT "C"



**BENCHMARK**  
ENGINEERING & LAND SURVEYING, LLC  
9130 South State Street, Suite 100  
Sandy, Utah 84070  
Office 801.542.7192  
Fax 801.542.7195

October 28, 2015

Bryan Baggley  
1891 Spring Lane  
Holladay, UT 84117  
801.755.6399  
bmbaggaley@yahoo.com

RE: 2258 East Lambourne Ave, Millcreek, UT  
Proposed 2 Lot Subdivision  
Proposal for Civil Engineering and Surveying Services

Dear Bryan,

We visited the property to inspect the retaining wall along the east property line. Upon investigation, it appears that the wall does enter into the property. However, it appears that this is due to the wall collapsing into your property. In my opinion, this wall was originally constructed on the adjoining property's land.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kagan M. Dixon', is written over the word 'Sincerely,'.

Kagan M. Dixon, PLS

**Subject:** 2258 E Lambourne Ave Retaining Wall Issue  
**From:** Bryan Baggaley (bmbaggaley@yahoo.com)  
**To:** gbaptist@slco.org;  
**Cc:** gsinsch@gmail.com; jjinsch@aol.com; collin@mountainwestlaw.com;  
**Date:** Monday, November 2, 2015 11:59 PM

Greg,

Thank you for taking the time to meet with me today on the retaining wall issues at 2258 E Lambourne Ave. As I have had contractors, surveyors and engineers looking at this retaining wall it has become apparent that there are several concerning issues that need to be addressed with the design and construction of this wall.

- 1) The home adjacent to the retaining wall appears to have footings that may be above the retaining wall level and may be surcharging the retaining wall. The rear 1/3 of the home appears to have a basement, the center 1/3 of the home appears to have shallow foundations with a crawlspace (crawlspace vents are visible) The front 1/3 portion of the home appears to be an enclosed carport and the footings under this portion may be questionable. IBC 2012 Section 1808.7.2 requires that the footings of the home be set-back at least a 45 degree angle from any slope or excavation, - or a geotechnical evaluation is required. This analysis should be included with the wall permit documents to ensure the safety and stability of the home before, during construction and after the placement of the new wall.
- 2) Currently almost all rain water from the property at 2260 is draining over the failed retaining wall and onto my property. The new retaining wall needs to be designed such that all run-off water from the property at 2260 Lambourne ave is retained on their side of the property line and delivered to appropriate public storm water drains.
- 3) There is a utility pole part of the way down the property line that is serving the property at 2260. Multiple contractors that I have had look at this are concerned that this pole both interferes with a retaining wall and may become unstable if excavations for a retaining wall are made near the pole. This pole needs to be evaluated and probably moved by Rocky Mountain Power to ensure that it does not fall or otherwise become a hazard during construction of this wall.
- 4) Two nights ago there were 9 cars and one motorcycle parked on the property or on the adjacent roadway. Some of these cars are parked off of the paved driveway and on the dirt adjacent to the failed retaining wall. We are concerned that parking so close to the failed retaining wall is a hazard - particularly to someone in the car. The areas of the worst damage to the wall are directly adjacent to where cars are parked and the damage appears to be the result of cars running into the fence poles and/or surcharging the wall (see attached photo). We are inclined to think that due to the hazard the county should restrict parking to be a safe distance away from the wall until repairs are made. Also we feel that the owners of the home at 2260 need to address the parking situation as a part of the retaining wall submittal with a diagram showing where parking is allowed and not allowed and how many cars are allowed. If they intend to park or drive adjacent to the retaining wall (as they currently are) then the

retaining wall needs to be designed as a vehicle barrier per IBC Section 406.4.3. to prevent a car from falling onto our property. If this is not intended parking then it may be appropriate to request curbs, rocks or other landscape to prevent future parking against the wall.

5) As any retaining wall will have to be up to 5' tall to retain the soil the fall from this wall presents a significant falling hazard. IBC typically requires barriers to prevent falling anytime there is a drop more than 30". As such a fence should be required on the top of the retaining wall to prevent climbing and falling hazards.

The issues noted above have added significant liability to this wall such that I feel that it is innapropriate for me to work on it or make any modifications to the wall in any way - even where it is failing onto my property. This liability has also made it so that many contractors have not wanted to bid this project, or have increased their bids significantly to address these issues.

When I met with you this morning we particularly discussed the parking situation and the number of cars regularly parked at the property (typically 8 or 9 vehicles are parked at the home overnight) It appears to us that there are multiple tenants in the home which are mostly young men. I emailed the other owner asking how many tenants were in the home and they did not respond. You mentioned that that the zoning for this home allows a maximum of 4 unrelated tenants and that having that many people and vehicles at this home was likely a zoning violation which you would forward to zoning enforcement to pursue. I would appreciate it if you would follow up with me and let me know the outcome of their investigation.

This morning we also discussed that I have had surveyors and engineers who have reviewed the condition of the wall, and have looked into the construction methods. The surveyors found that the wall in question was not constructed on my side of the property and only crosses the property line where it has failed. The engineers gave me a verbal indication that the fence posts and concrete curb that exist below the wall appear to predate the wall and would establish the existing grade at the property line prior to the installation of the retaining wall. The grade on my property does not vary except within a few inches from the existing curb, but the grade on the adjacent property varies by up to 5' from the established curb. I have received a written letter from my surveyor and I will ask for a letter from the engineer. Based on this information we feel that we have sufficient documentation to show that the full ownership and responsibility for this wall lies with the adjoining neighbor. You mentioned that this is a civil issue which I understand. On the other hand, I think that you must also recognize that the building and zoning departments depend on surveyors and engineers to determine property lines and ownership issues every day. Unless the neighbor can provide opposing documentation and opinions from his engineers and surveyors then I would propose that my documentation would be sufficient to remove the restrictions from my title and release the subdivision of my land. If this is insufficient documentation for your needs then please let me know what I would need to submit. I have reviewed my documentation with legal counsel and we are prepared to seek a judgement and legal order if necessary, however my first inclination is that I would rather spend money contributing to an amicable agreement with the neighbor where possible rather than spend money on legal pursuits. Please let me know what documentation you will require to release my title

Thank you,

Bryan Baggaley

801-755-6399

---

## Attachments

- 20151102\_225717.jpg (193.06KB)

**Subject:** FW: Revised Compliance order  
**From:** Collin Simonsen (collin@mountainwestlaw.com)  
**To:** bmbaggaley@yahoo.com;  
**Date:** Wednesday, November 18, 2015 11:26 AM

Bryan, FYI.

---

**From:** Zachary Shaw [mailto:ZShaw@slco.org]  
**Sent:** Wednesday, November 18, 2015 11:26 AM  
**To:** Collin Simonsen  
**Cc:** David Pena  
**Subject:** RE: Revised Compliance order

Thanks Collin. David Pena from my office will be handling this matter and will be in contact with you. I have cc'd him, so you can email him directly with any questions.

Zachary Shaw  
 Deputy District Attorney  
 Office of the District Attorney  
 2001 S. State Street, S3-600  
 Salt Lake City, Utah 84190-1210

Office: (385) 468-7789

Fax: (385) 468-7800

[Zshaw@slco.org](mailto:Zshaw@slco.org)

[www.districtattorney.slco.org](http://www.districtattorney.slco.org)

CONFIDENTIAL: This electronic message - along with any/all attachments - is confidential. This message is intended only for the use of the addressee. If you are not the intended recipient or the person responsible to deliver it to the intended recipient, you may not use, disseminate, distribute or copy this communication. If you have received this message in error, please immediately notify the sender by reply electronic mail and delete the original message. Thank you.

---

**From:** Collin Simonsen [<mailto:collin@mountainwestlaw.com>]  
**Sent:** Tuesday, November 17, 2015 1:48 PM  
**To:** Zachary Shaw  
**Subject:** FW: Revised Compliance order

Zach,

Please also see this email from my client explaining who he spoke with and what he learned.

Thank you.

Collin

---

**From:** Bryan Baggaley [<mailto:bmbaggaley@yahoo.com>]  
**Sent:** Tuesday, November 17, 2015 1:13 PM  
**To:** Collin Simonsen  
**Subject:** Fw: Revised Compliance order

Collin,

Attached is the revised letter. It is a building code violation as it references the IBC (International Building Code).

I am also attaching a letter from my surveyor indicating that the wall was not constructed on my property, but is encroaching on my property where it is failing. If the failing wall is not mine and was not constructed on my property why does the county black mark my title.

I would like you to contact the county attorney first and see if there is a solution through the county rather than through the court system. **When I was at the county yesterday I talked with Mr Baptist as well as Mike Mallory (head inspector) and Mike Durfee (Head Building Official). They were all well aware of the wall situation and they said that the previous owner of my property has been filing complaints for 20+ years on the wall. I am not sure why they never filed a non-compliance on the wall until now - I think that when I walked through the door they noticed a responsible owner and they decided that I should have to deal with my neighbors wall. But they all seem happy that I am stuck dealing with it instead of them.**

017

Bryan

----- Forwarded Message -----

**From:** Gregory Baptist <[GBaptist@slco.org](mailto:GBaptist@slco.org)>

**To:** Bryan Baggaley <[bmbaggaley@yahoo.com](mailto:bmbaggaley@yahoo.com)>

**Cc:** Michael Durfee <[MDurfee@slco.org](mailto:MDurfee@slco.org)>; Michael Mallory <[MMallory@slco.org](mailto:MMallory@slco.org)>; Brent Stephenson <[BStephenson@slco.org](mailto:BStephenson@slco.org)>

**Sent:** Monday, November 16, 2015 4:27 PM

**Subject:** Revised Compliance order

## SCOPE AND ADMINISTRATION

the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

**[A] 115.3 Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

## SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT

**[A] 116.1 Conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate *means of egress* facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the *building official* deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

**[A] 116.2 Record.** The *building official* shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

**[A] 116.3 Notice.** If an unsafe condition is found, the *building official* shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

**[A] 116.4 Method of service.** Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

**[A] 116.5 Restoration.** The structure or equipment determined to be unsafe by the *building official* is permitted to be restored to a safe condition. To the extent that repairs, *alterations* or *additions* are made or a change of occupancy occurs during the restoration of the structure, such repairs, *alterations*, *additions* or change of occupancy shall comply with the requirements of Section 105.2.2 and Chapter 34.

## SCOPE AND ADMINISTRATION

the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

[A] **115.3 Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT

[A] **116.1 Conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate *means of egress* facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the *building official* deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

[A] **116.2 Record.** The *building official* shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

[A] **116.3 Notice.** If an unsafe condition is found, the *building official* shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

[A] **116.4 Method of service.** Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

[A] **116.5 Restoration.** The structure or equipment determined to be unsafe by the *building official* is permitted to be restored to a safe condition. To the extent that repairs, *alterations* or *additions* are made or a change of occupancy occurs during the restoration of the structure, such repairs, *alterations*, *additions* or change of occupancy shall comply with the requirements of Section 105.2.2 and Chapter 34.

1/4

be constructed and installed in accordance with such approval.

**[A] 104.9.1 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless *approved* by the *building official*.

**[A] 104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, the *building official* shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the *building official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

**[A] 104.10.1 Flood hazard areas.** The building official shall not grant modifications to any provision required in *flood hazard areas* as established by Section 1612.3 unless a determination has been made that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards of Section 1612 inappropriate.
2. A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
5. Submission to the applicant of written notice specifying the difference between the *design flood elevation* and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the *design flood elevation* increases risks to life and property.

**[A] 104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code

in quality, strength, effectiveness, *fire resistance*, durability and safety.

**[A] 104.11.1 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

**[A] 104.11.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

## SECTION 105 PERMITS

**[A] 105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*.

**[A] 105.1.1 Annual permit.** In lieu of an individual *permit* for each *alteration* to an already *approved* electrical, gas, mechanical or plumbing installation, the *building official* is authorized to issue an annual *permit* upon application therefor to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the *permit*.

**[A] 105.1.2 Annual permit records.** The person to whom an annual *permit* is issued shall keep a detailed record of *alterations* made under such annual *permit*. The *building official* shall have access to such records at all times or such records shall be filed with the *building official* as designated.

**[A] 105.2 Work exempt from permit.** Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. *Permits* shall not be required for the following:

### Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m<sup>2</sup>).

## SCOPE AND ADMINISTRATION

2. Fences not over 7 feet (2134 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925 L) and the ratio of height to diameter or width is not greater than 2:1.
6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or *story* below and are not part of an *accessible route*.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment accessory to detached one- and two-family  *dwellings*.
12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
13. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

### Electrical:

**Repairs and maintenance:** Minor repair work, including the replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles.

**Radio and television transmitting stations:** The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

**Temporary testing systems:** A *permit* shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

### Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

### Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

### Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a *permit* shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

[A] **105.2.1 Emergency repairs.** Where equipment replacements and repairs must be performed in an emergency situation, the *permit* application shall be submitted within the next working business day to the *building official*.

[A] **105.2.2 Repairs.** Application or notice to the *building official* is not required for ordinary repairs to structures, replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include *addition* to, *alteration* of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

[A] **105.2.3 Public service agencies.** A *permit* shall not be required for the installation, *alteration* or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

[A] **105.3 Application for permit.** To obtain a *permit*, the applicant shall first file an application therefor in writing on a

3/4  
022

8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design *occupant load*.
11. If an *automatic sprinkler system* is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building *permit*.

[A] **111.3 Temporary occupancy.** The *building official* is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the *permit*, provided that such portion or portions shall be occupied safely. The *building official* shall set a time period during which the temporary certificate of occupancy is valid.

[A] **111.4 Revocation.** The *building official* is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

## SECTION 112 SERVICE UTILITIES

[A] **112.1 Connection of service utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a *permit* is required, until released by the *building official*.

[A] **112.2 Temporary connection.** The *building official* shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

[A] **112.3 Authority to disconnect service utilities.** The *building official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 101.4 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without the approval required by Section 112.1 or 112.2. The *building official* shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

## SECTION 113 BOARD OF APPEALS

[A] **113.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable govern-

ing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

[A] **113.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

[A] **113.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

## SECTION 114 VIOLATIONS

[A] **114.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] **114.2 Notice of violation.** The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] **114.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the *building official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

[A] **114.4 Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

## SECTION 115 STOP WORK ORDER

[A] **115.1 Authority.** Whenever the *building official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *building official* is authorized to issue a stop work order.

[A] **115.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to

File # 29403

## Subdivision Summary and Recommendation

**Public Body:** Millcreek Township Planning Commission **Meeting Date:** December 16, 2015

**Parcel ID:** 16-27-328-013

**Current Zone:** R-1-8

**Property Address:** 2258 E Lambourne Ave.

**Request:** 2 lot Subdivision (flag lot)

**Community Council:** Canyon Rim

**Township:** Millcreek

**Planner:** Todd A. Draper

**Planning Staff Recommendation:** Approval with Conditions

**Applicant Name:** Bryan Baggaly

### PROJECT DESCRIPTION

The applicant is proposing to divide the subject property into two lots and create a flag lot behind the existing home.

### SITE & VICINITY DESCRIPTION (see attached map)

The site is located in on the South side of Lambourne Avenue between Connor Street and 2300 East. The surrounding neighborhood is zoned R-1-8.

### LAND USE CONSIDERATIONS

Requirement	Standard	Proposed	Compliance Verified
Height	28 feet	n/a	n/a
Front Yard Setback	Base lot: 25 feet	25 feet	yes
Side Yard Setback	Base Lot: minimum of 8 feet, combined total equal to 25% of lot width – min of 20.4 feet required	9.4 feet and 11.5 feet for a total of 20.9 feet.	yes
Rear Yard Setback	Base Lot: 30 feet (15 feet with garage)	19.85 feet	yes
Flag Lot Setbacks	20 feet on all sides	20 feet on all sides	yes
Lot Width	65 feet	105.6 feet	yes
Lot Area	Base Lot: 8,000 sq. ft. Flag Lot: 12,000 sq. ft. (inclusive of access easement)	Base Lot: 9240 sq. ft. Flag Lot: 12,026 (inclusive of access easement)	yes

Parking	2 spaces per dwelling unit	2 spaces for the base lot	Yes
---------	----------------------------	---------------------------	-----

## NEIGHBORHOOD RESPONSE

---

2 emails provided to the planning commission at the November 18, 2015 meeting voiced opposition to the subdivision of the property as they felt that it would increase traffic. There were also concerns expressed about the lack of sidewalk in the area for pedestrians and the existing spillover of automobile parking onto the street from nearby residences.

## REVIEWING AGENCIES RESPONSE

---

Unless otherwise noted these responses pertain to the previously reviewed plans and not the current plan set.

AGENCY: Grading

DATE: 10/27/2015

RECOMMENDATION: Review Denied – Address grade change at east property line. The retaining wall along that side is in failure. A Stormwater maintenance agreement will need to be completed recorded and return a to our office for the retention area

AGENCY: Geology

DATE: 10/27/2015

RECOMMENDATION: Review Denied – Demolition permit required to remove the existing structures from the site. Must address failing retaining wall in subdivision plans.

AGENCY: Urban Hydrology

DATE: 10/5/2015

RECOMMENDATION: Approval

AGENCY: Subdivision Engineering

DATE: 9/30/2015

RECOMMENDATION: Approval - Curb gutter and sidewalk along frontage are required.

**UPDATE: 11/30/2015** – Approval - Bond required for 5' sidewalk, drive approach, and installation of access drive to rear lot.

AGENCY: Traffic Engineer

DATE: 10/6/2015

RECOMMENDATION: Approval - Location of drive approaches is not clear on plan. Show existing drive approaches, and indicate whether they will be removed, and proposed drive approaches.

AGENCY: Unified Fire Authority

DATE: 10/1/2015

RECOMMENDATION: Approval

**UPDATE: 11/30/2015** – Approval - If access drive to rear lot is over 150 feet in length from the street then an approved fire turnaround and/or the installation of automatic fire sprinklers may be required.

AGENCY: Health Department

DATE: 11/2/2015

RECOMMENDATION: Approval - A Stormwater maintenance agreement will need to be completed recorded and return a to our office for the retention area

AGENCY: Public Works Operations

DATE: 11/3/2015

RECOMMENDATION: Approval

**UPDATE: 11/30/2015** - Approval

AGENCY: Building Inspection

DATE: 9/25/2015

RECOMMENDATION: Approval

**UPDATE: 11/30/2015** - Approval – Demolition permits are required to remove any existing structures. Building permits are required for the construction of the new home and any remodeling or addition work to the existing home.

Compliance with current building, construction, engineering, fire, health, landscape and safety standards will be verified prior to final approval.

---

## **PLANNING STAFF ANALYSIS**

---

Staff has completed the analysis of the updated proposed plans and plat, and has determined that the plat and plans will comply with ordinance and policy requirements related to flag lot subdivisions, as long as the proposed garage on the base lot is constructed prior to recording the final plat. An existing garage is required for the proposed setback reduction for the rear yard of the base lot.

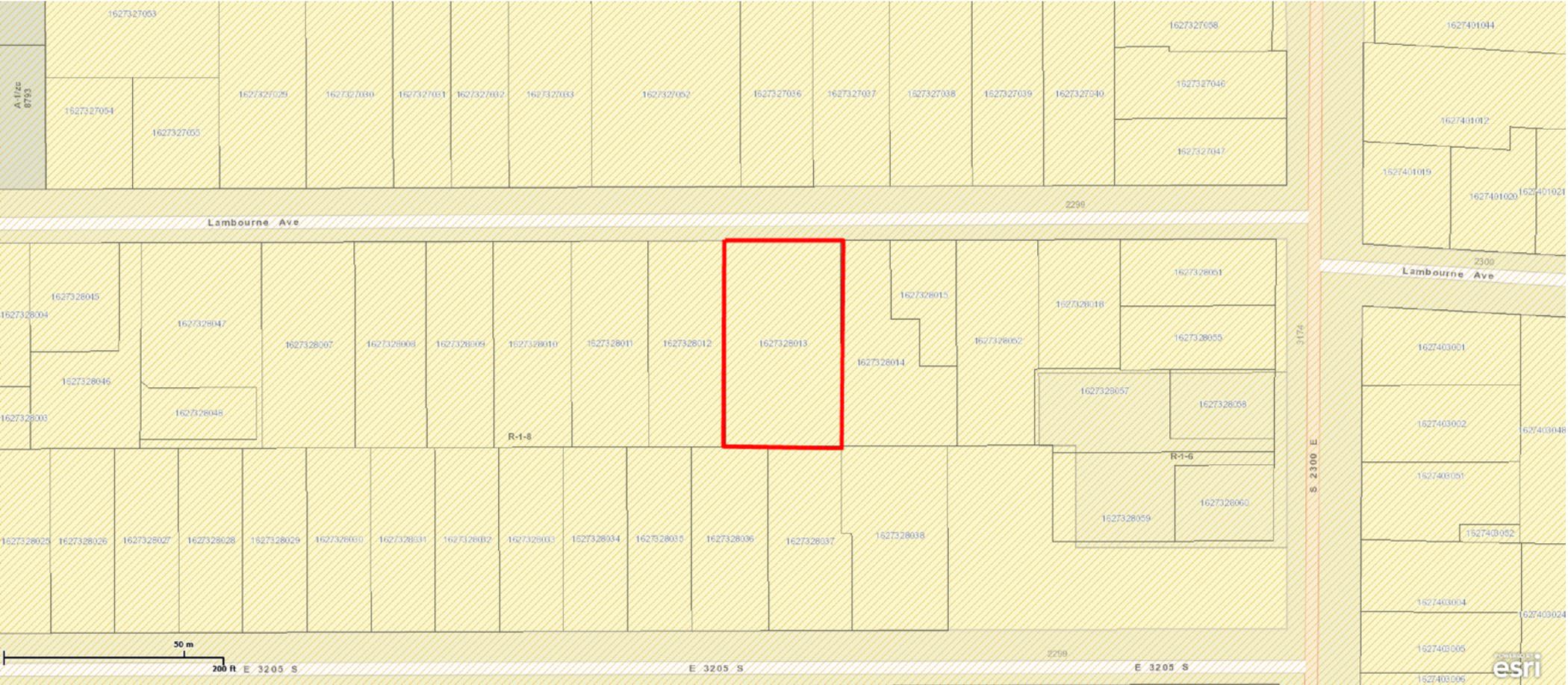
---

## **PLANNING STAFF RECOMMENDATION**

---

Planning staff recommends that the Millcreek Township Planning Commission grant approval of the subdivision application as proposed with the following conditions:

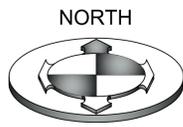
1. Complete construction of the proposed garage for the base lot prior to recordation of the final plat.
2. Complete construction related to repair or replacement of the failing retaining wall on the east side of the property (or post a bond guaranteeing its completion) prior to recordation of the final plat.
3. Compliance with all other recommendations and requirements of the reviewing agencies and entities identified through the subsequent technical review process.



Wed May 20 2015 04:22:53 PM.



Wed May 20 2015 04:23:32 PM.



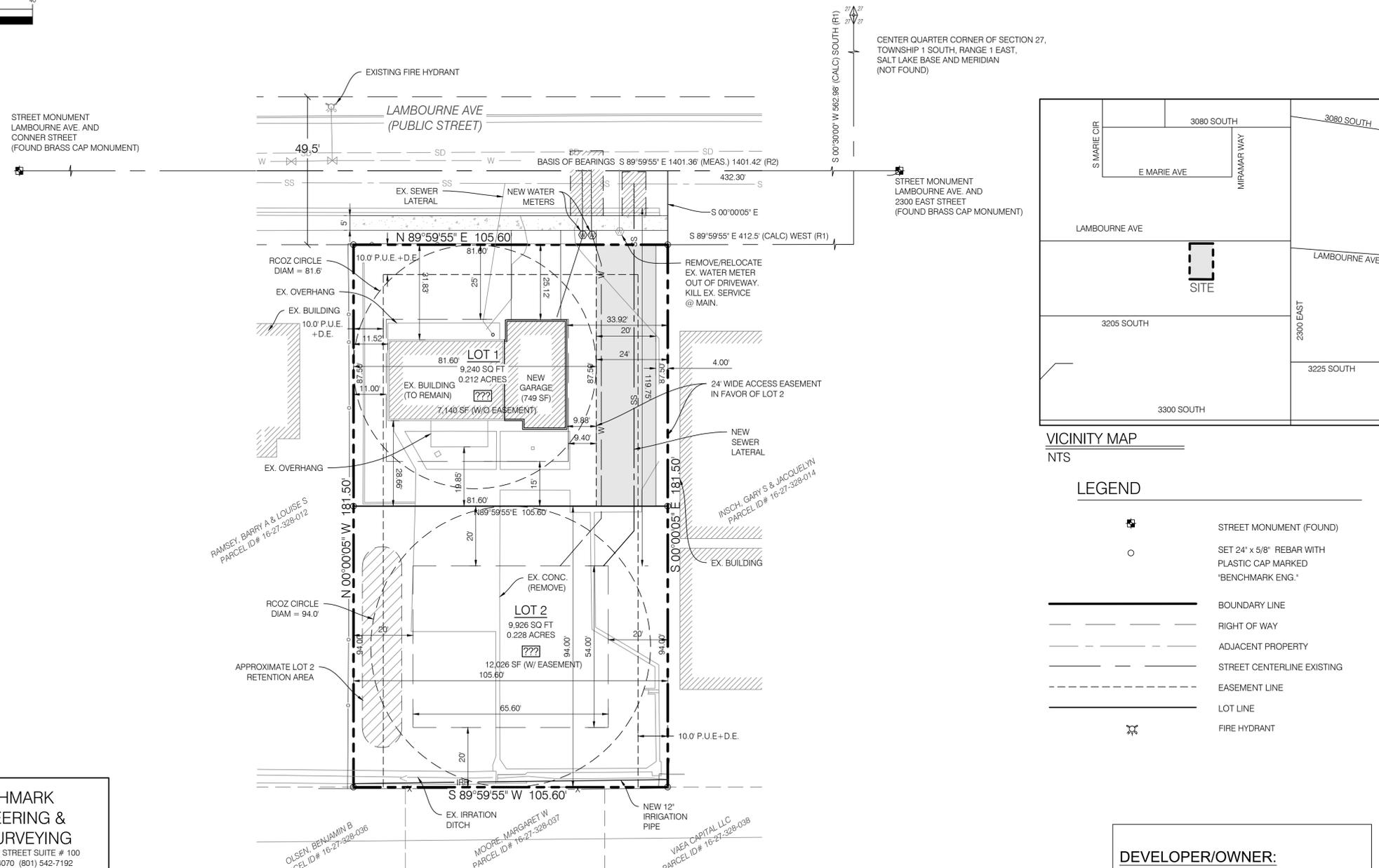
GRAPHIC SCALE



(IN FEET)  
1 inch = 20ft.

# LAMBOURNE ESTATES SUBDIVISION

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27,  
TOWNSHIP 1 SOUTH, RANGE 1 EAST  
SALT LAKE BASE AND MERIDIAN  
PRELIMINARY PLAT



CENTER QUARTER CORNER OF SECTION 27,  
TOWNSHIP 1 SOUTH, RANGE 1 EAST,  
SALT LAKE BASE AND MERIDIAN  
(NOT FOUND)



VICINITY MAP  
NTS

### LEGEND

- STREET MONUMENT (FOUND)
- SET 24" x 5/8" REBAR WITH PLASTIC CAP MARKED 'BENCHMARK ENG.'
- BOUNDARY LINE
- RIGHT OF WAY
- ADJACENT PROPERTY
- STREET CENTERLINE EXISTING
- EASEMENT LINE
- LOT LINE
- FIRE HYDRANT

**DEVELOPER/OWNER:**  
**NAME: BRYAN BAGGLEY**  
**TELEPHONE: (801) 755-6399**  
**EMAIL: bmbaggaley@yahoo.com**

### SURVEYOR'S CERTIFICATE

I, DALE K. BENNETT, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 103381 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW. A RECORD OF SURVEY PREPARED BY BENCHMARK ENGINEERING AND LAND SURVEYING, LLC, HAS BEEN FILED AS #S2014-10-0517 IN THE SALT LAKE COUNTY SURVEYOR'S OFFICE, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS HEREAFTER TO BE KNOWN AS:

### LAMBOURNE ESTATES SUBDIVISION

### BOUNDARY DESCRIPTION

BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF LAMBOURNE AVENUE, SAID POINT BEING SOUTH 89°59'55" WEST 432.30 FEET ALONG THE MONUMENT LINE AND SOUTH 00°00'05" EAST 24.75 FEET FROM THE STREET MONUMENT AT THE INTERSECTION OF 2300 EAST STREET AND LAMBOURNE AVENUE, AND RUNNING THENCE SOUTH 00°00'05" EAST 181.50 FEET; THENCE SOUTH 89°59'55" WEST 105.60 FEET; THENCE NORTH 00°00'05" WEST 181.50 FEET TO A POINT ON SAID SOUTH RIGHT OF WAY LINE; THENCE NORTH 89°59'55" EAST 105.60 FEET TO THE POINT OF BEGINNING.  
CONTAINS 0.440 ACRES, MORE OR LESS  
2 LOTS



SUBMITTED FOR REVIEW ONLY

### OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT, THE UNDERSIGNED OWNER(S) OF THE ABOVE DESCRIBED TRACT OF LAND, HAVING CAUSED SAME TO BE SUBDIVIDED INTO LOTS AND STREETS TO BE HEREAFTER KNOWN AS THE

### LAMBOURNE ESTATES SUBDIVISION

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE. IN WITNESS WHEREBY \_\_\_\_\_ HAVE HEREUNTO SET THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_.

### ACKNOWLEDGEMENT TO OWNER'S DEDICATION

STATE OF UTAH } S.S.  
County of Salt Lake }  
ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_ PERSONALLY APPEARED BEFORE ME \_\_\_\_\_ WHO BEING DULY SWORN BY ME DID ACKNOWLEDGE THAT HE IS A MANAGING MEMBER OF VP HOMES, LLC, A UTAH LIMITED LIABILITY COMPANY, AND THAT THE FOREGOING OWNER'S DEDICATION WAS SIGNED BY HIM ON BEHALF OF SAID LLC.  
MY COMMISSION EXPIRES: \_\_\_\_\_ NOTARY PUBLIC  
RESIDING IN SALT LAKE COUNTY

### LAMBOURNE ESTATES SUBDIVISION

LOCATED IN SOUTHWEST QUARTER OF SECTION 27,  
TOWNSHIP 1 SOUTH, RANGE 1 EAST,  
SALT LAKE BASE & MERIDIAN

### UNIFIED FIRE AUTHORITY APPROVAL

DATE \_\_\_\_\_ SIGNED \_\_\_\_\_

**BENCHMARK ENGINEERING & LAND SURVEYING**  
9130 SOUTH STATE STREET SUITE # 100  
SANDY, UTAH 84070 (801) 542-7192  
www.benchmarkcivil.com  
DATE: 07/21/2011

ADDRESS FRONTAGE APPROVED  
DATE \_\_\_\_\_ SIGNED \_\_\_\_\_

CHECKED FOR ZONING COMPLIANCE  
Zone: \_\_\_\_\_ Lot Area: \_\_\_\_\_  
Lot Width: \_\_\_\_\_ Front Yard: \_\_\_\_\_  
Side Yard: \_\_\_\_\_ Rear Yard: \_\_\_\_\_  
Date \_\_\_\_\_ Signature \_\_\_\_\_

Record of Survey  
RSC NO.: S-2014-10-0517  
Date \_\_\_\_\_ Signature \_\_\_\_\_

PLANNING COMMISSION  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_ BY THE SALT LAKE COUNTY PLANNING COMMISSION.  
CHAIR, SALT LAKE CO. PLANNING COMMISSION

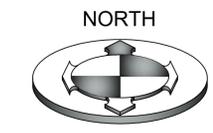
HEALTH  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_  
SALT LAKE VALLEY HEALTH DEPT.

PLAN CHECK  
I HEREBY CERTIFY THAT THIS OFFICE HAS EXAMINED THIS PLAT AND IT IS CORRECT IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE.  
DATE \_\_\_\_\_ TOWNSHIP SERVICES MANAGER

APPROVAL AS TO FORM  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_  
SALT LAKE COUNTY DISTRICT ATTORNEY

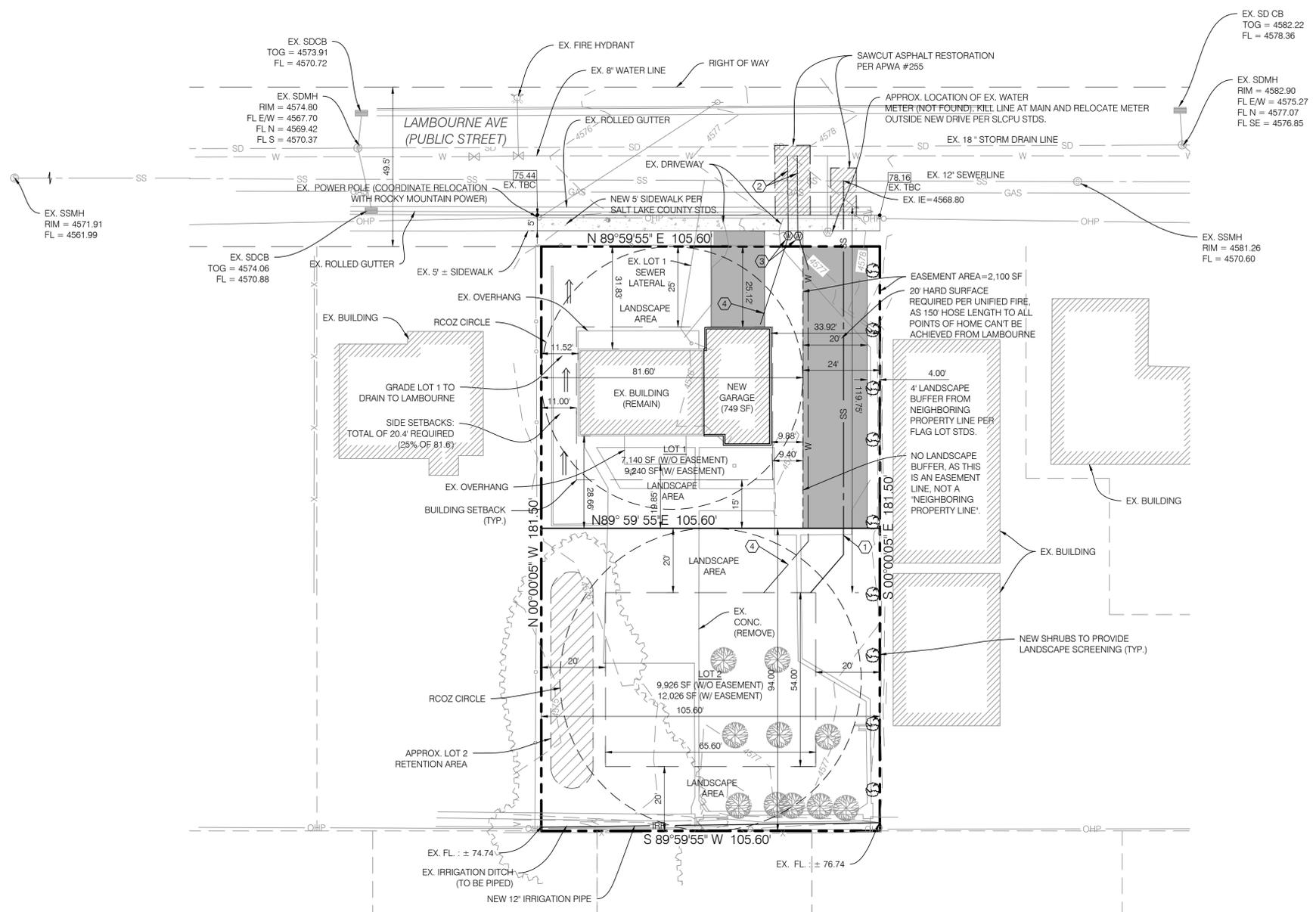
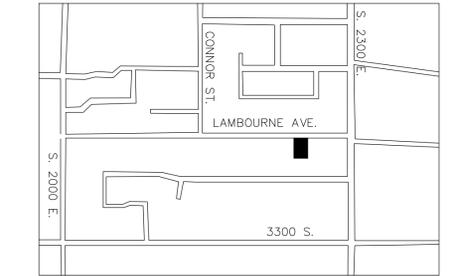
MAYOR  
PRESENTED TO THE SALT LAKE COUNTY MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_, AT WHICH TIME THIS SUBDIVISION WAS APPROVED AND ACCEPTED.  
MAYOR, OR DESIGNEE

RECORDED #  
STATE OF UTAH, COUNTY OF SALT LAKE, RECORDED AND FILED AT THE REQUEST OF  
DATE \_\_\_\_\_ TIME \_\_\_\_\_ BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
FEE \$ \_\_\_\_\_ SALT LAKE COUNTY RECORDER



GRAPHIC SCALE  
(IN FEET)  
1 inch = 20ft.

VICINITY MAP



UTILITIES KEY NOTES REFERENCE		
NO.	DESCRIPTION	DETAIL
①	4" PVC SDR-35 SEWER LATERAL @ 2% MIN. SLOPE	
②	3/4" TYPE 'K' COPPER WATER SERVICE LINE	
③	3/4" WATER METER	
④	3/4" POLY WATER SERVICE LINE	

AREA TABLE (SQ. FT.)		
BLDG:	4,307	22.5%
LANDSCAPE:	12,216	63.7%
HARDSCAPE:	2,643	13.8%
TOTAL:	19,166	100%

\*NOTE: AREA TABLE ASSUMES 2500 S.F. NEW HOME ON LOT 2.

ZONE: R-1-8  
RCOZ OPTION A

**FLOOD INFORMATION**  
THIS SITE IS LOCATED WITH ZONE 'X', WHICH IS DESCRIBED AS 'AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN' AS SHOWN ON FLOOD INSURANCE RATE MAP FOR SALT LAKE COUNTY, UTAH AND UNINCORPORATED AREAS MAP #49035C0304G REVISED 9/25/2009.

NOTE:  
CONTRACTOR IS RESPONSIBLE FOR POTHOLING TO IDENTIFY ANY CONFLICTS BEFORE ANY PIPE INSTALLATION. CONTACT ENGINEER IF ANY CONFLICTS ARE IDENTIFIED.

NOTE:  
PRIOR TO FABRICATION OR CONSTRUCTION, CONTRACTOR IS TO BEGIN AT THE LOW END OF ALL GRAVITY UTILITY LINES AND VERIFY THE INVERT ELEVATION OF THE POINT OF CONNECTION AND NOTIFY ENGINEER IF THIS POINT IS HIGHER THAN SHOWN ON THE PLANS FOR A REDESIGN.

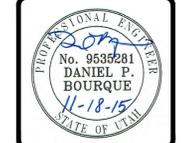
CALL BEFORE YOU DIG.  
IT'S FREE & IT'S THE LAW

BLUE STAKES OF UTAH  
UTILITY NOTIFICATION CENTER

1-800-662-4111  
www.bluestakes.org

NO.	DATE	DESCRIPTION
1	11/18/15	REVISED PER COUNTY COMMENTS

SCALE MEASURES FUNCTION FULL SIZE SHEETS  
AS SHOWN ACCORDING TO REDUCED SIZE SHEETS



**BENCHMARK ENGINEERING & LAND SURVEYING**  
9130 SOUTH STATE STREET SUITE # 100  
SANDY, UTAH 84070 (801) 542-7192  
www.benchmarkcivil.com

**LAMBOURNE ESTATES SUBDIVISION**  
BRYAN BAGGALEY  
2258 E LAMBOURNE AVE  
MILLCREEK, UTAH

PROJECT NO. 1406070  
**GRADING & UTIL. PLAN**  
CGD.01  
1 OF 1

PRELIMINARY

## Todd Draper

---

**From:** CenturyLink Customer [REDACTED]  
**Sent:** Monday, November 16, 2015 1:05 PM  
**To:** Todd Draper  
**Subject:** 2258 Lambourne Ave zoning requests

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Todd-

We live at [REDACTED] [REDACTED] which is [REDACTED] from the 2258 E Lambourne Ave who is making a rezoning request. We would like to put our input into this request. We are not in favor of allowing a 2 lot estate. Our drive way is directly across the street from where the proposed drive way would be. We are not in favor of the increased traffic that having 2 homes on that property will make. We have many multiple resident dwellings on the street that already increase the amount of traffic. There is also a very limited amount of street parking with the neighbors houses. This means that there are always cars parked in front of our house making it difficult to access our driveway and to see people walking by since there is no sidewalk for pedestrians. We are concerned for our property, our children, our neighbors property and children as well as for the traffic on our street.

We want to make sure that our voices and our neighbors voices are heard about this request for zoning. Please let us know that you received this and have passed it on to those involved. Also, if we can do anything else please let us know. We are aware of a meeting on Wed Nov 18 at 4 pm and will plan to attend.

Thank you for your time

Dan and Sandy Jenkins  
[REDACTED]

## Todd Draper

---

**From:** Jason Langston [REDACTED]  
**Sent:** Monday, November 16, 2015 12:54 PM  
**To:** Todd Draper  
**Cc:** Tonya [REDACTED]  
**Subject:** file #29403 2258 East Lambourne Ave.

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello Todd,

I live [REDACTED] from the subject property at 2255 East Lambourne Ave. and I am concerned about the proposed request for an exception to the zoning that would allow the property at 2258 to be subdivided into two lots. The owners have already built a home on the west end of the property and I don't believe there is sufficient room to have another home built on the east end. There already are too many vehicles parked at the subject property and with another home sharing a driveway this would add to the congestion on the street and force the owners to park in front of my home.

I went to the county website and entered the information regarding the property and was directed to another site for unincorporated Salt Lake County without further details. Please let me know if there is additional information available.

Regards,

**Jason Langston**  
Managing Partner & CFO

**GPS Capital Markets, Inc.**  
Corporate Foreign Exchange

[REDACTED]









2258

Tyvek HomeWrap

SUNROC

SUNROC



