



# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1<sup>st</sup> Amendment Subdivision (CUP 2021-03) located at 3563 North Creekside Way owned by Collins Stevens. The allegation is that the Planning Commission erred in its decision to deny the request for a short term rental.

**Agenda Date:** Thursday, May 13, 2021

**Applicant:** Collins Stevens

**File Number:** BOA #2021-05

### Property Information

**Approximate Address:** 3571 N Lakeview Ct #76, Eden, UT, 84310.

**Project Area:** 0.03 Acres

**Zoning:** Forest Residential Zone (FR-3)

**Existing Land Use:** Residential

**Proposed Land Use:** Residential-Short term Rental.

**Parcel ID:** 22-370-0014

**Township, Range, Section:** T7N, R1E, Section 22 SW

### Adjacent Land Use

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Lakeview Court	<b>West:</b>	Creekside Way

### Staff Information

**Report Presenter:** Tammy Aydelotte  
taydelotte@webercountyutah.gov  
801-399-8794

**Report Reviewer:** SB

## Applicable Ordinances

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 17 (Forest Residential)
- Weber County Land Use Code Title 108 (Standards) Chapter 4 (Conditional Uses)

## Background

### Request and General Project Information

The appellant (Mr. Stevens) is requesting an appeal of a land use decision made by the Ogden Valley Planning Commission on March 23, 2021. The decision in question is a denial of a conditional use (CUP 2021-03) request for a short term rental, submitted by Collins Stevens where, when not in use by the property owner, the single-family dwelling would be used as a short-term rental, as allowed in the FR-3 zone under conditional uses. See Exhibit A for the Mr. Stevens' appeal form and associated narrative, a copy of Mr. Stevens' Conditional Use Permit application, and approved minutes from the 3-23-2021 Ogden Valley Planning Commission Meeting. See Exhibit B for the original Planning Division staff report packet reviewed by the Planning Commission on March 23, 2021. The staff report included a recommendation for approval by Planning Staff. See Exhibit C for the Notice of Decision (dated 3-24-2021) that summarizes the Planning Commission's findings for the denial.

The outcome, if Mr. Stevens' conditional use request is approved, would be the allowance of a short-term rental, in a zone that allows short-term rentals as a conditional use. The subject parcel is located at approximately 3571 North Lakeview Ct. #76, Eden, UT. It sits within the Forest Residential (FR-3) Zone. The FR-3 Zone allows short-term rentals as a conditional use.

**The following section of the county land use code was brought up by county staff as the Planning Commission considered Mr. Stevens' conditional use application:**

**LUC 108-4-4 Conditional Use Decision Requirements**

1. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards of this chapter, or relevant standards or requirements of any other chapter of this Land Use Code. When considering any of the standards, the land use authority shall consider the reasonably anticipated detrimental effects of the proposed use in the context of current conditions and, to the extent supported by law, the policy recommendations of the applicable general plan.
2. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

**Role of Board of Adjustment**

The Board of Adjustment's role, in this appeal, is described in §102-3-3 (Duties and powers of the board) and §102-3-4 (Decision criteria and standards) of the Weber County Land Use Code and is provided below with bold text marking applicable language:

**Sec. 102-3-3. - Duties and powers of the board.**

***The board of adjustment shall have the following duties and powers:***

***(1) To act as the appeal authority from decisions applying and interpreting this Land Use Code and Zoning Maps.***

***(2) To hear and decide variances from the requirements of the Land Use Code.***

**Sec. 102-3-4. - Decision criteria and standards.**

***(a) Appeals from decisions applying and interpreting the Land Use Code and Zoning Maps.***

***(1) The board of adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code and Zoning Maps.***

***(2) The board of adjustment may hear only those decisions in which the land use authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel.***

***(3) The appellant has the burden of proof that the land use authority erred.***

***(4) All appeals to the board of adjustment shall be filed with the planning division not more than 15 calendar days after the date of the written decision of the land use authority.***

***(5) Appeals to the board of adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.***

***(b) Variances from the requirements of the Land Use Code.***

**Application History**

Below is Mr. Stevens' project history:

2-3-2021	Collins Stevens submits a Conditional Use Permit application (CUP2021-03) to the Weber County Planning Division.
3-23-2021	Ogden Valley Planning Commission denies application for a conditional use permit.
3-30-2021	Collins Stevens submits a Board of Adjustment Application to the Weber County Planning Division.

## Summary of Board of Adjustment Considerations

- Do the items described in Mr. Stevens' appeal warrant overturning the Ogden Valley Planning Commission (3-23-2021) decision to deny Mr. Stevens' Conditional Use request (CUP2021-03).
- Based on §108-4-3 (provided above), can the BOA find (in the record) that the Planning Commission erred in appropriately identifying circumstances, that cannot be mitigated, to support the Planning Division's (3-23-2021) decision to deny Mr. Stevens' request for a Conditional Use permit?

## Exhibits

- A. Mr. Stevens' appeal to the Weber County Board of Adjustment. This Exhibit includes Mr. Stevens' BOA application form, a copy of Mr. Stevens' Conditional Use Permit application, and minutes from the 3-23-2021 Ogden Valley Planning Commission Meeting.
- B. Planning Division staff report packet that provides Mr. Stevens' Conditional Use information and findings that form the basis for the denial issued on March 23, 2021.
- C. Notice of Decision that summarizes the Planning Commission's findings for the denial.

## Vicinity Map



## Exhibit A – Board of Adjustment Application and Narrative for Appeal, CUP Application

### Stevens-Collin-Board of Adjustment

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**Address:** 3571 N Lakeview Ct. #76, Eden, UT, 84310  
**Maps:** [Google Maps](#)  
**Project Type:** Board of Adjustment  
**Sub Type:** Board of Adjustment  
**Created By:** [Collin Stevens](#)  
**Created On:** 3/25/2021  
**Project Status:** Accepted  
**Status Date:** 3/30/2021  
**File Number:**  
**Project Manager:**

[Active](#) [On Hold](#) [Complete](#)

[Application](#)

[Documents](#) **5**

[Comments](#) **2**

[Reviews](#) **0**

[Followers](#) **10**

[Status](#)

[Notifications](#)

### Application

[+ Add Building](#) [+ Add Parcel](#) [+ Add a Contractor](#) [✎ Edit Application](#) [Print](#)

**Property Address** 3571 N Lakeview Ct. #76  
Eden, UT, 84310

**Property Owner** Collin Stevens  
602-698-0960  
collin@rowadvisors.com

**Representative** --

**Accessory Dwelling Unit** False  
**Current Zoning** FR-3  
**Subdivision Name** The Village At Wolf Creek  
**Number of Lots**  
**Lot Number** 76  
**Lot Size** 1,267 SF  
**Frontage** 18'  
**Culinary Water Authority** Wolfcreek Water Company  
**Secondary Water Provider**  
**Sanitary Sewer Authority** Wolfcreek Sewer Improvement District  
**Nearest Hydrant Address** Within the Village at Wolf Creek Development  
**Signed By** Owner, Collin Stevens

**Parcel Number**

[✕ Remove](#) 223700014 - [County Map](#)

Scope of CUP Application: Consideration and/or action on a conditional use permit for short term rental use at 3571 N Lakeview Ct #76, Eden, UT, 84310

Staff Recommendation: Approval subject to the following conditions

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

Ogden Valley Planning Commission Decision: Denied

Reason for Decisions: The parking/safety impact of the short term rental cannot be adequately mitigated.

Appeal:

The Ogden Valley Planning Commission failed to adhere to Utah Municipal Code 10-9A-507 Conditional Uses. The Planning Commission failed to impose reasonable conditions that would substantially mitigate concerns despite the repeated attempts by Deputy County Attorney Courtlan Erickson to inform the Commission of the requirements dictated by law.

Mr. Erickson directed the Commission that they must provide credible evidence that detrimental effects cannot be substantially mitigated. The commission responded with hypothetical scenarios and assumptions that lack any credibility as evidence in this case. The commission further stated that laws and rules (CC&R's in this case) would not be "listened" to. A decision cannot be passed based on a broad assumption that the general public will break laws, rules and regulations.

The primary concern of the Commission related to vehicle parking on Wolf Lodge Drive. A reasonable mitigation would be to condition the approval upon vehicle parking on-premises only or further mitigated by required parking in-garage only. The broader concern of public parking on Wolf Lodge Dr can also be mitigated by the County itself by instituting a No Parking Zone.

A secondary concern was related to the safety on site related to snow removal/emergency access. The Commission claimed that the site was not designed appropriately for snow removal, however, it was the commission itself that approved the overall development. If a legitimate concern exists, it should have been addressed by the Commission during the approval stage of the development. The fact that the development was approved is evidence that the project was designed to County specifications and the concern lacks credibility under law. Further, the CC&R's restrict parking on private streets to mitigate this concern: *"Vehicles may be parked in garages and Driveways and in other designated parking areas as Declarant may establish in the Project. No vehicle (including any trailer connected to such vehicle) may extend into any Private Street or other thoroughfare. No vehicle, equipment or item may be parked on any portion of the Common Area that has not been clearly designated as a parking space or parking area. Parking within the Project may be further regulated by Rules and Regulations adopted by the Board from time to time."*

There was also concern regarding boat trailer parking on premises. The Covenants, Conditions, and Restrictions for The Village At Wolf Creek expressly prohibit the parking or storing of trailers, boats, etc outside of unit garages: ***"14.8 Trucks, Trailers, Campers and Boats Any motor vehicles with a manufacturer rating exceeding 3/4-ton, as well as recreational vehicles, mobile homes, travel trailers, tent trailers, trailers, camper shells, detached campers, boats, boat trailers, commercial vehicles or other similar equipment or vehicle must be parked and maintained in garages only"***. While this concern is already mitigated by a legally enforceable CC&R, it could be further mitigated by requiring the permittee to prohibit trailers in the property listing/rental agreement.

Based on the Planning Commission's failure to adhere to Utah Municipal Code 10-9A-507 the Applicant requests that the County issue the Conditional Use Permit subject to the Conditions found under the Staff Recommendation of the Staff Report to the Ogden Valley Planning Commission.

It is also recommended that the Board view the video recording and/or meeting minutes to review the conduct of the Commission despite the attempts by Courtlan Erickson-Deputy County Attorney to interject as it relates to Utah Municipal Code 10-9A-507 Conditional Uses.

Excerpts of Mr. Erickson's statements to the Commission:

*"If you deny short term rental as a use in a zone where they are a conditionally permitted use, you need to have findings that basically say we are unable to impose conditions that substantially mitigate the detrimental effects and make sure that you put some findings in there that are going to hold up if it gets challenged which do need to be based on credible evidence that it cannot be substantially mitigated."*

*"I feel bound to speak up here again to say can you impose conditions to mitigate that issue? Is requiring them to park in the garage and to comply with the CC&R's regarding all kinds of other parking. Is that a reasonable condition you can impose that mitigates those concerns? The concerns are real, absolutely, but can you impose reasonable conditions that would substantially mitigate those concerns. That is a crucial question here."*

## Stevens III-Collin F-Conditional Use Permits

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**Address:** 3571 N Lakeview Ct #76, Eden, UT, 84310 6809  
**Maps:** [Google Maps](#)  
**Project Type:** Conditional Use Permits  
**Sub Type:** Conditional Use Permits  
**Created By:** [Collin Stevens](#)  
**Created On:** 2/2/2021  
**Project Status:** Accepted  
**Status Date:** 2/3/2021  
**File Number:** CUP 2021-03  
**Project Manager:** [Tammy Aydelotte](#)

[Application](#)[Documents](#) 4[Comments](#) 0[Reviews](#) 2[Followers](#) 4[Status](#)[Notifications](#)

### Application

[+ Add Building](#)[+ Add Parcel](#)[+ Add a Contractor](#)[✎ Edit Application](#)[Print](#)

#### Project Description

Nightly Rental within a planning area designated as "allowed with conditional use permit"

#### Property Address

3571 N Lakeview Ct #76  
Eden, UT, 84310 6809

#### Property Owner

Collin F Stevens III  
480-495-2659  
[collin@rowadvisors.com](mailto:collin@rowadvisors.com)

#### Representative

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#### Accessory Dwelling Unit

False

#### Current Zoning

FR-3

#### Subdivision Name

Village at Wolf Creek

#### Number of Lots

#### Lot Number

76

#### Lot Size

.03 Acres

#### Frontage

18'

#### Culinary Water Authority

Wolfcreek Water Company

#### Secondary Water Provider

#### Sanitary Sewer Authority

Wolfcreek Sewer Improvement District

#### Nearest Hydrant Address

On Site

#### Signed By

Owner, Collin F Stevens III

#### Parcel Number

[✖ Remove](#) 223700014 - [County Map](#)

Minutes of the Ogden Valley Planning Commission Meeting for March 23, 2021. To join the meeting, please navigate to the following weblink at <https://us02web.zoom.us/j/88084532783> the time of the meeting; commencing at 5:00 p.m.

**Present:** John Lewis, Chair; Shanna Francis, Vice Chair; Jeff Burton, Chris Hogge; John (Jack) Howell, Ron Lackey, Steve Waldrip.

**Absent/Excused:** None

**Staff Present:** Rick Grover, Planning Director; Courtlan Erickson, Legal Counsel; Steve Burton, Planner; Tammy Aydelotte, Planner; Felix Lleverino, Planner; Scott Perkes, Planner.

- **Pledge of Allegiance**

- **Roll Call:**

Chair Lewis asked if anyone had any ex parte communication or conflict of interest to declare. No disclosures were made.

**1. Approval of Minutes for February 23, 2021.**

Commissioner Hogge moved to approve the minutes of the February 23, 2021 meeting as presented. Vice Chair Francis seconded the motion. Commissioners Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0).

**2. Petitions, Applications, and Public Hearings.**

**2.1 CUP 2021-06: Request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development. *Staff Presenter: Steve Burton; Applicant: Conley Hubert***

Steve Burton reported the applicant is requesting to amend the conditional use permit for the Village at Wolf Creek PRUD, specifically the required house types associated with the single-family lots. The proposed amendments will apply to the following lots: Lot 3, 5, 7, 9, 11, 12, 14, 15, 16, 17, 18, 23, 25, 26, 32, 33, 34, and 35. The owners of lots 24 and 29 have also been included on the proposed amendment. The original house types for each lot were proposed by the original developer in 2000 and were amended once in 2005. The application is being processed as an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the Planning Commission to review and approve applications for conditional use permits and design reviews. The established use of the property, as higher density residential, is not proposed to change. The only proposed changes are to the house types that were previously approved. Planning staff does not feel that the proposed changes to the house types are contradictory to the general plan. The subject property is in the FR-3 zone, which allows a Planned Residential Unit Development with a conditional use permit. As part of this conditional use review, staff reviewed the existing house types that have been approved for the applicable lots. He referenced exhibit A to the application, which is a site plan showing the existing house types that are approved for each lot. Exhibit A also includes building elevations and floorplans that were established for each unit from the original approvals. The proposed amendment would remove the requirement of specific floor plans, as well as specific elevations. The applicant is proposing to have general standards that each dwelling would need to implement. The applicant has included general elevations of what the buildings would look like, under the proposed standards. The proposed building elevations have similar features to the previously approved units, including similar roof pitches and exterior materials. The applicant proposes to include fiber cement siding, natural wood siding, stucco, brick, and stone as acceptable building materials. The amendment includes a request to have a building height allowance of 45 feet. Staff recommends restricting the building height to 40 feet, as 40 feet is allowable in similar developments such as cluster subdivisions. The proposal includes language that would require any accessory buildings to have identical materials as the dwelling. The proposal also includes language that allows only brick, stone, wrought iron, and vinyl fences. As part of the amendment, the applicant has requested a short-term rental (STR) approval for all of the lots included in this amendment. Short term rentals are currently a conditional use within the FR-3 zone. Instead of each individual applying for a separate STR permit, the developer would like to market the lots as already approved for STR. Given that each unit will have the required 2 parking spaces, Planning Staff recommends that this development receive an overall approval (for only the lots on this application) for STRS. Steve Burton concluded staff recommends approval of this conditional use application subject to all review agency requirements and the following conditions:

1. Average building height cannot exceed 40 feet.



2. A notice must be recorded to each of the lots in this amendment, indicating which changes were made as part of this approval. The notice must be prepared and approved by the Planning Division prior to receiving the conditional use permit amendment.

This recommendation is based on the following findings:

1. The Planning Commission has considered the conditional use standards and has imposed reasonable standards to mitigate any detrimental impact to the surrounding area.

Steve Burton added that the staff report does not reference a specific restriction for building colors for homes to be built in the project area, but staff would like to include a condition that the color palette for new homes be muted, earth tone colors to fit in with the surrounding area.

Chair Lewis invited input from the applicant.

The applicant was not present.

Commissioner Hogge referenced the lot layout plan that was initially approved and indicated that each lot contains the name of the housing type that was intended to be constructed thereon; he asked if the intent of the original approval was to require specific housing types on specific lots. Steve Burton answered yes; the original plan was very detailed and that was the intent. The purpose of the current application is to eliminate that requirement to allow for any one of the three building types presented to be constructed on any lot. Commissioner Hogge inquired as to the number of buildings that have already been built. Steve Burton displayed a Google Earth image for the Commission to get an understanding of the current number of homes that have been built. Chair Lewis added that just six or seven houses have been built. Steve Burton clarified that actually 10 buildings have been built to date.

Commissioner Burton referenced the standard regarding dwelling quality and exterior materials; the standard indicates that fiber cement siding and natural wood siding can be used, but the next sentence indicates a dwelling's front exterior should not be constructed of 100 percent fiber cement siding and he asked if the applicant is seeking to uphold that restriction and to use rock or brick to compliment fiber cement siding. Steve Burton stated it was his understanding the applicant was seeking approval to use 100 percent fiber cement siding on the front elevation of a home. He reviewed the application further to determine what the applicant is requesting; he indicated it may be necessary to ask for clarification from the applicant. Commissioner Burton then referenced the request to allow STRs at the property and noted the applicant indicated there will be two parking spaces per rental; he asked if that is sufficient parking for the proposed use. Steve Burton stated that for a single-family dwelling, staff recommends a minimum of two parking spaces. Commissioner Burton stated that the vacation rental properties may be filled with groups of people and he wondered if two parking spaces is sufficient to keep people from parking on the street. Steve Burton stated that staff is comfortable with the parking accommodations proposed by the applicant, but the Planning Commission has the authority to consider increased parking accommodations. Commissioner Burton stated that the Commission has discussed parking standards for STRs over the past several months and he wants to rely upon a firm standard for the number of parking spaces truly needed for a rental property, perhaps based upon the number of bedrooms in the property. Steve Burton reiterated the Commission can consider that matter further, but staff was relying upon the current ordinance when evaluating this application; the current ordinance requires a minimum of two parking spaces for a single-family dwelling. Each unit has a two-car garage and parking would be allowed on the driveway approach to the garage, so it would technically be possible to park three to four cars off the street.

Vice Chair Francis stated she may be comfortable with this type of recommendation on a regular street where there is sufficient room for on-street parking, but the streets in this project are so narrow and on-street parking will cause problems. She feels it is necessary to mitigate that issue for this project. Steve Burton agreed, but noted that the streets in the project area are private street and there should not be a great deal of public traffic. He stated it would be necessary to have a clear understanding of any parking issues that presently exist in the project and at this point it may be difficult to document those issue since STRs currently are not operated in the project area. Vice Chair Francis stated that she is aware there is at least one STR property in the project area.

Chair Lewis then stated that when this project was assembled several years ago, the theme was rustic and rural; however, it has changed ownership several times and the plans for the project have been modified, which has left it with a 'hodge-podge' of different themes and color palettes. He stated that transitioning to modern architecture and stark-white color palates will cause further disconnection and he does not feel the new homes will blend with their surroundings. Additionally, there are no other homes in the area that are taller than 35 feet and he would strongly recommend that the increased building height not exceed 35 feet in this project. He stated he supports conditional approval of the application, restricting building heights to 35 feet, maintaining the mountain rustic and craftsman themes, and avoiding

the white color palate in favor of continuing earth tones or mountain rustic tones. He then noted he is not sure that the County can restrict STRs in the project area since the use has been allowed in surrounding areas. Given that the project is private and is managed by a homeowner's association (HOA), the on-street parking issue should be addressed by the HOA.

Commissioner Howell inquired as to the total number of STRs in the project area. Steve Burton stated Vice Chair Francis indicated there is one STR in the project.

Commissioner Waldrip asked if the only requested deviations from the approved plan for this project relate to building height and building color/design. Steve Burton stated the applicant has also requested an amendment that would eliminate the requirement for a floor plan to be submitted to the County for approval.

Chair Lewis invited public input.

John Bingham, 3483 Willowbrook Lane, stated he is aware of at least two homes in the project that are STRs; one of the homes was reported to have as many as 15 people staying at the home and three boats parked on the street. He stated that may not be problematic when there are just one or two STRs in the project, but if all units can be used as STRs, on-street parking will absolutely become an issue. He also referenced Steve Burton's comment that cars could be parked on the driveway approach for the garages and indicated he does not think the driveways are deep enough to accommodate vehicles, especially longer vehicles. He suggested the County review the setbacks and lengths of the driveways before relying upon the presence of driveways to accommodate off-street parking. He suggested that the Commission consider an additional condition of approval that the applicant be required to provide additional parking areas within the project to accommodate the potential for an increase in STRs. He noted he believes those operating a STR in the project area are unaware that they need a business license for that use.

Miranda Menzies, 3807 North Elkrige Trail, stated her concern is twofold; the project is essentially the gateway to the Wolf Creek Resort and, therefore, has the potential to impact the property values of all properties within the resort. If this development appears to be one of pandemonium, it will impact surrounding properties. She stated the amendment of the regulation for how a building height would be measured resulted in opportunities for actual building heights to be 40 feet, based upon an average building height of 35 feet. She asked that the Commission consider a true 35-foot building height for homes in this project. She also asked them to consider the impact that operating a large number of STRs in the project area will have on the safety of the rest of the residents; the narrow road width coupled with on-street parking will impact safety of other residents and make it difficult for public safety apparatus to access homes.

Ray Bertoldi, 4828 E. 3650 N., stated he lives just above this development and he echoed the comments made by Ms. Menzies regarding the need to keep the building height at or lower than 35 feet as taller buildings would not be harmonious with the area. He stated he can look out his window at the homes that have already been built and he has concerns about the white color scheme, bright lighting, and building heights; he is concerned that those issues will worsen based upon this new proposal. He stated he is also concerned about the traffic and on-street parking; when a vehicle is parked on the street, there is only one lane of traffic available for motorists. He noted that STRs are not allowed in the Patio Springs project, but the subject property is directly adjacent to Patio Springs and it would be problematic for STRs to be allowed there. He emphasized his concerns about an increase in traffic and how that will impact the safety of current residents. He reiterated Ms. Menzies comments that this project is the gateway to Wolf Creel and the County needs to be sensitive to the impact the project will have on other properties.

There was no additional public input.

Vice Chair Francis asked if it is possible to impose a condition requiring the applicant to eliminate a few building lots in order to build community parking areas on the site in order to address the concerns about on-street parking and increased traffic associated with STRs. Steve Burton stated that staff does not feel it is reasonable for the Commission to impose that restriction; it would be necessary to first prove an actual detriment associated with the parking scenario. However, the County can prohibit on-street parking and this would become an enforcement issue. If the prohibition is not observed, the CUP could be revoked for STRs. Planning Director Grover noted the Commission could require that the driveways are long enough to accommodate parking of vehicles in front of the two-car garages; if that is not possible, units not meeting that condition could not be used as STR properties. Steve Burton agreed and noted that would require a finding that four parking spaces are needed for STR properties; this would include the two parking spaces in the garage and the two in the driveway approach. Commissioner Lackey noted that this condition would address parking of typical vehicles, but if a person staying in the STR brings a boat or trailer with them, they will not be able to park in the driveway and their only option would be to park on the street. Chair Lewis inquired as to the road widths in the project, to which Steve Burton answered 40-feet. Chair Lewis stated that means the park-able surface is 18 feet; he stated that if a boat

or truck is parked in the street, it will not be passable by a public safety vehicle. Mr. Grover stated that a finding prohibiting on-street parking should be based upon the need to ensure adequate public safety response to emergencies in the project area.

The Commission and staff reviewed an aerial image of the project area, focusing in the road layout in the project and the difficulties that will be created if vehicles are parked on the street. Chair Lewis stated he does not believe this project was ever conceived as being open to nightly rentals, especially since it is located in a single-family area. The Commission is being asked to amend the CUP for the project and the Commission is not required to grant that request; he does not believe building heights should exceed 35 feet, the color palate/building themes should not be changed, and STRs should not be allowed as the project was not designed for that use. Steve Burton noted the Planning Commission is acting as a recommending body to the County Commission. Chair Lewis suggested that the Commission's recommendation be subject to the conditions he noted above.

Commissioner Waldrip asked if the County can require for signage to be installed in the project area to notify visitors that on-street parking is not allowed. Mr. Grover stated that signage can be required for safety purposes; if the Commission feels that on-street parking associated with the STRs creates a life-safety issue, they can recommend denial of the CUP. However, if they feel that conditions can be imposed that will mitigate these concerns, such conditions of approval can be recommended to the County Commission. Commissioner Waldrip stated that there are many STRs in close proximity to the subject property and allowing more STRs is not necessarily the issue; the issue is that the STRs will create an increase in on-street parking, which impacts safety of the entire area. He feels on-street parking can be prohibited, but that will be difficult to enforce without appropriate signage. Chair Lewis disagreed; most people will not obey a sign, particularly when they are just a visitor to the area. He added that property owners in the project area know they are not allowed to operate a STR in the project area, but they are still doing it. Visitors to those STRs should also know they should not be parking on the lawn of the home they are staying in, but they are still doing that as well.

Commissioner Burton asked if there are areas set aside for guest parking in the area. Steve Burton answered yes and identified those areas on the aerial image of the project.

Chair Lewis asked if the original declarant for the project is still intact or if the HOA is now being managed by actual homeowners in the project area. Steve Burton stated the latter is the case.

Commissioner Howell moved to recommend approval of CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Prior design standards, including earth tone color scheme and housing types, remain in effect.
- Requiring four off-street parking spaces per unit, two in the garage and two on the driveway;
- Prohibiting on-street parking for safety purposes;
- STR approval applies only to the lots in this petition; and

Commissioner Waldrip seconded the motion.

Chair Lewis stated he does not feel allowing nightly rentals in the project area is appropriate; many people visiting the area will bring a boat with them in the summer or snowmobiles in the winter, and they will need to park on the street. Additionally, he feels strongly that the previously approved building theme should be observed in the project, and that building heights should not exceed 35 feet. Vice Chair Francis, Commissioner Burton, and Commissioner Lackey agreed. Commissioner Burton referenced the small notches for visitor parking in the roadway on the original plan; he asked if there is any mechanism in the original approval of the project that requires on-street parking to occur in those notches. Chair Lewis stated that was likely part of the original approval to require 1.75 parking spaces per unit. Commissioner Burton asked if the HOA can eliminate those parking spaces and prohibit on-street parking. Mr. Grover stated those visitor parking areas are shown on the approved site plan and the HOA must observe that plan unless it is appropriately amended. There is also a trail required as part of the open space requirements for the project. Commissioner Burton asked how the County can prohibit on-street parking if the developer is required to include the parking notches on the street. Mr. Grover stated that parking could be allowed in the pull-out areas, but not on the side of the road. Commissioner Burton stated that the County can restrict parking in the private right-of-way if it is associated with a STR; however, if an actual homeowner wants to park on the street, he does not believe the County can prohibit that. Commissioner Burton asked if the HOA can prohibit that, to which Steve Burton answered yes. Commissioner Burton asked if the Fire Marshall has provided a recommendation regarding on-street parking. Steve Burton answered yes; the Fire Marshall has reviewed the project and did not identify any issues.

Chair Lewis called for a vote on the current motion; Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted nay. (Motion failed 6-0)

Commissioner Lackey stated he supports the idea of requiring signage in the project area prohibiting on-street parking. Chair Lewis asked if signage should be required for residents and STR visitors alike. Commissioner Lackey stated that if the prohibition of on-street parking is truly based on safety, it should be required regardless of the person parking on the street. Chair Lewis stated it may be somewhat onerous to prohibit on-street parking for actual residents of the development and that is likely something that should be addressed by the HOA. Commissioner Lackey agreed and suggested that signage be required if STRs are going to be allowed.

Commissioner Howell asked if the Commission can prohibit STRs at a property where four off-street parking spaces cannot be provided. Chair Lewis stated that is possible, but he is concerned about visitors to a STR property arriving with a trailer because they were not aware of or did not observe the on-street parking prohibition.

Vice Chair Francis made a motion regarding CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development; she moved to approve the request to change the architecture of homes to be built in the project, deny the request to change the color scheme of the project and uphold the earth tone color scheme, deny the request for STRs in the project based on the use creating a life-safety issue.

Chair Lewis stated the Commission needs to either deny the application or approve it with conditions. Vice Chair Francis stated she actually wishes to deny the application outright.

Vice Chair Francis amended her motion; she moved to deny CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development. The motion died for lack of a second.

Chair Lewis stated it is his suggestion that the Commission recommend approval of the application subject to limiting building heights to 35 feet, using earth tones rather than a white color scheme, allowing mountain rustic and craftsman building styles, but not mountain modern, and denying the STR use. Legal Counsel Erickson stated that STRs are a conditional permitted use in the zone and denial of the use must be based on a finding as specified in the County Code as follows: "the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal; or the imposition of reasonable conditions to achieve compliance with applicable standards." He stated that a motion to deny must clearly include language that there are findings that detrimental effects cannot be substantially mitigated. Chair Lewis stated the reason he feels that the detrimental effects associated with STRs cannot be substantially mitigated are that there will be on-street parking and that is not reasonable on such a narrow road. Unless someone can tell him how to mitigate a very narrow road, he does not believe STRs can be approved.

Commissioner Waldrip moved to recommend approval of CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Average building height cannot exceed 35-feet;
- Proposed house types approved, with the exception of mountain modern;
- Colors used in the CUP area do not allow for white exterior coloring;
- STRs are not approved based on the finding that the narrow streets in the project cannot accommodate on-street parking, which is likely guaranteed if nightly rentals are allowed. This detrimental effect is impossible to mitigate, and it is not possible to ensure adequate travel lanes for emergency vehicles when on-street parking occurs.

Chair Lewis asked for a friendly amendment to limit the color palate for the project to earth tones, specifically excluding white. Commissioner Waldrip accepted the friendly amendment.

Commissioner Burton seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

Chair Lewis stated this was a difficult issue and the Planning Commission does not enjoy denying applications, but he feels the denial is based on preserving the safety of the surrounding neighbors and upholding previous approvals that govern the appearance of the project. Commissioner Lackey added that another thing for staff to consider when looking at development applications similar to this one is that owners of this type of home that will be used for a STR typically store their belongings in the garage and do not give renters access to that space; therefore, there are not actually two

usable parking spaces in the garage. Commissioner Burton agreed that is typically the case; if there were a condition of approval requiring access to the garage for parking, the owners would not be able to do that. Chair Lewis added he would have voted for nightly rentals in the project area if the streets were not so narrow.

**2.2 CUP2021-03: Request for approval of a conditional use permit for short term rental use within an existing dwelling located**

**at 3571 N Lakeview Court #76, Eden, UT, 84310 in the FR-3 zone. Staff Presenter: Tammy Aydelotte; Applicant: Collin Stevens; &**

**2.3 CUP2021-01: Request for approval of a conditional use permit for short term rental use within an existing dwelling located**

**at 3563 N Creekside Way, Eden, UT, 84310 in the FR-3 zone. Staff Presenter: Tammy Aydelotte; Applicant: Christian Mannion**

Planner Aydelotte reported the applicant for application CUP2021-03 is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR3 zone at 3571 N Lakeview Court, #76, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Planner Aydelotte reported the applicant for application CUP2021-01 is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR3 zone at 3563 Creekside Way, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Ms. Aydelotte noted that she has confirmed with the applicants that their garage will be accessible to renters for the purposes of accommodating off-street parking. Vice Chair Francis stated she thought that the homes in this project area only have single car garages. Ms. Aydelotte stated there are some that have just a single car garage, but the home under application CUP2021-03 has a two-car garage. She noted the home under application 2021-01 is for a home with a single-car garage.

Commissioner Burton asked if the single-car garage units are smaller units, to which Ms. Aydelotte answered yes; she noted all units have four bedrooms, but the units with single-car garages are smaller in terms of square footage.

Chair Lewis invited input from the applicants.

Collin Stevens stated he is the property owner; it is a three-bedroom unit, and the basement can be used as an additional bedroom space. It is 1,770 square feet with a two-car garage. He does own a vehicle in Utah, but when he is not at the property the vehicle is kept in a storage space near the Salt Lake City airport.

Commissioner Burton asked if the basement is built out. Mr. Stevens answered yes; it has a bedroom and bathroom, but appraisers do not count basement dwelling rooms as bedroom spaces. There are three bedrooms on the top floor of the unit. The Fire Marshall has capped the occupancy of the unit at 10 individuals.

Commissioner Howell inquired as the amount of space in front of the garage. Mr. Stevens stated his unit does not have a driveway to accommodate off-street parking. Commissioner Burton asked where renters will park when visiting the property. Mr. Stevens stated they can park in the two-car garage and there are additional first-come, first-serve visitor parking spaces within the development. Ms. Aydelotte stated there are 18 additional guest parking spaces on the site and there are 27 total units in the project. Commissioner Howell asked if some of the units do have parking spaces in front of their garages. Ms. Aydelotte answered yes; some units do have parking spaces, but the subject property does not.

Chair Lewis asked if there is a snow storage plan for the project area. He asked where snow will be placed in the event of a storm that requires snow removal. Ms. Aydelotte stated the site plan does identify a snow storage area, but she is unsure the HOA is observing that plan and preserving the visitor parking spaces during a storm. Chair Lewis stated that similar to the previous application, he is concerned about safety and he is unsure how STRs can be operated in a project with so little visitor parking. Mr. Stevens stated that he does not believe that boat or RV parking is allowed on the site based upon the covenants, conditions, and restrictions (CCRs) for the project; additionally, snow removal was not a problem this winter.

Commissioner Burton asked what kind of parking requirements would be imposed on a hotel. Chair Lewis stated the County Code requires 1.75 parking spaces per unit for this type of project. Commissioner Burton stated he understands that requirement but asked about the parking requirements for each room in hotel project. Ms. Aydelotte stated hotels are required to provide one parking space per two sleeping units.

Mr. Stevens stated the CCRs for the project restrict trucks over  $\frac{3}{4}$  ton, trailers, campers, and boats unless they can be parked and maintained in a garage space. Commissioner Burton asked if there are garages large enough to house boats or trailers. Mr. Stevens stated that for purposes of this discussion, it is important for the Commission to understand that the CCRs clearly state that boats or trailers cannot be parked anywhere on the site and visitors would need to find other accommodations. Commissioner Lackey stated that there are not many types of boats that would fit in the garages in this project area. Mr. Stevens stated there is an active property management company employed by the HOA that enforces the CCRs for the project. Ms. Aydelotte stated staff performed a site visit to this project area and found the only vehicles parked on the roadways were associated with the actual construction of the units.

Chair Lewis asked how many single-car garage units there are in the project. Ms. Aydelotte stated she does not have that information readily available.

Commissioner Burton stated the matter for the Commission to consider is whether operating the units as nightly rentals will impact the overall safety of the area. Legal Counsel Erickson stated that the Commission should consider whether they can impose reasonable conditions that would mitigate safety issues. He stated that compliance with CCRs may mitigate the concerns. Chair Lewis stated the problem is that everyone is aware of how nightly rentals operate; the

renters will arrive with multiple vehicles and perhaps recreational vehicles. The County can impose rules, but visitors staying in the area for just a few nights will not observe those rules. He stated that if the project layout were different and could accommodate visitor parking as well as snow storage, or if the roads were wider and could accommodate on-street visitor parking, he may feel differently, but at this point he does not feel that it is possible to mitigate the safety concerns.

Ms. Aydelotte asked if conditions can be imposed or a denial issued based upon an assumption that the conditions or laws will be violated at some point in the future. Mr. Erickson stated that credible evidence must be present to support the conditions that are being imposed. Chair Lewis stated he lives next door to a property that is operated as a STR; the five cars that are parked at the home when it is illegally rented is credible evidence to him. Vice Chair Francis added that those who live in Eden and are familiar with properties that are being offered for nightly rentals can attest to the average number of vehicles associated with each rental.

Chair Lewis invited public input.

Ray Bertoldi stated his observations as he has driven the road that goes by this property nearly every day since he moved to Eden include a number of vehicles parked on the street for just one unit and he feels this problem will only worsen as the project is built out and there are more residents living or renting there. He stated that 18 extra spaces for 27 units is not enough to accommodate STRs. He is also concerned about snow storage; snow is pushed out of the development onto Wolf Lodge Lane because it cannot be stored on-site. There are always vehicles with trailers parked on Wolf Lane Drive; this activity is associated with Wolf Lodge but will only become worse if STRs are allowed in the subject property. Just this morning when he was driving, he had to pull off to the side of the road to avoid a head-on collision that would have been the result of on-street parking. The vehicles that are parked on the site and on the roadway are not just construction vehicles, but they are associate with people living in the neighborhood at present.

John Bingham stated that just two units have been sold and there are two applicants for STRs; there is a possibility that the additional 25 units will apply for STRs in the future. This should not be a first-come, first-serve type of situation; either the development is designed for STRs or it is not and because of the parking at this site, he does not think STRs make sense in this case. There are too many unknowns and he feels the application should be denied until the County can develop standards that apply to STRs across the board and can be enforced.

Miranda Menzies stated she agrees with Mr. Bertoldi's comments and she has had similar experiences associated with the current on-street parking conditions. She stated the staff report indicates there is ample guest parking along Wolf Creek Drive, but she believes that is an error; Wolf Creek Drive is also State Route 158 and if people begin parking along that road, the Utah Department of Transportation (UDOT) will respond and prohibit it. She added that guest parking areas need to be indicated by clear signage and possibly be made available to guests only. She asked if Mr. Bingham's point is valid that STRs should either be allowed or prohibited in the entire area, rather than the County considering applications for single units in the project. She asked how the County could approve one or two applications for a STR but deny future applications. She wondered if approval of these applications would set a precedent for future applications. She also asked if a STR ordinance to be adopted at some point in the future will apply retroactively to properties that are already being operated as a STR, or if those properties will be grandfathered under earlier ordinances or approvals.

There was no additional public input.

Chair Lewis reiterated his feeling that allowing STRs in the project will create unsafe conditions; the design of the project was conceived long before the idea of allowing STRs therein and he is not sure how to mitigate the detrimental effects of the application. He noted he does not believe that the County would be required to approve STRs for all units if approval is given for one or two.

Vice Chair Francis added that when the project was initially approved, it was given an exception to allow less parking than is normally recommended for this type of project.

Commissioner Burton stated that while the zoning allows STRs as a conditional use, the developer chose to pursue very small streets and limited parking and those conditions are not conducive to operating a STR.

Commissioner Burton moved to deny CUP2021-03: Request for approval of a conditional use permit for short term rental use within an existing dwelling located at 3571 N Lakeview Court #76, Eden, UT, 84310 in the FR-3 zone, based on the following findings:

The layout of the development is not conducive to the STR rental use as the use would result in an increase in on-street parking.

The CCRs for the HOA do not reasonably address the matter of visitor parking and the presence of trailers and recreational vehicles on the site.

Winter 2020-21 was very mild, but that is not the norm and during a horrible winter, there will not be sufficient snow storage on the site; with a large amount of snow and on-street parking on the site, it would be difficult for emergency vehicles to access the area.

Commissioner Howell seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

#### **2.4 UVH021621: Consideration and action on a request for preliminary approval of Vista View Subdivision, consisting of four residential lots. Staff Presenter: Felix Lleverino; Applicant: Dean Jensen**

Planner Lleverino reported the applicant is requesting preliminary approval of a four-lot subdivision that fronts directly on 8600 East, and 500 South Streets, which are county public rights-of-way. This 21.01-acre lot is currently vacant farm ground. The north edge of the property falls at a mid-point of a 2,539' block and is an ideal location for an intersection from 8600 East Street. The Land-use Code of Weber County Section 106-2-3 (a) directs the creation of blocks.

"The maximum length of blocks generally shall be 1,300 feet and the minimum length of blocks shall be 500 feet."

Section 106-1-5 (a) (8) describes key elements of a subdivision design to begin the establishment of roads for future neighborhoods.

This property is not located within a geologic study area but as a precaution, the owner has obtained a Geotechnical Recommendation by CMT Engineering Laboratories that contains earthwork recommendations for the construction of four residential homes. The report includes recommendations for footings and foundations, seismic hazard mitigation, and foundation drainage.

As part of the approval process, the proposal has been reviewed against the current Weber County Land Use Code (LUC), and the standards of the AV-3 zone found in LUC §104-6. The following section is a brief analysis of this project against current land use regulations.

**General Plan:** This proposal conforms with the Ogden Valley General Plan (OVGP) by encouraging low-density development that preserves open space (see page 21 of the OVGP).

**Zoning:** The property is located in the AV-3 Zone. The purpose of this zone is stated in the LUC §104-6-1. "The purpose of the AV-3 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment."

**Flood Zone:** This parcel is within an area of minimal flood hazard and determined to be outside the 500-year flood level.



Roadway Dedication: The subdivision plat will convey the area to public streets (see exhibit A). The property description extends to the center of the 8600 East and 500 South. According to 106-2-2 (a) "Streets in year-round subdivisions shall be dedicated to the county".

Culinary Water: One well has been drilled which satisfies 106-4-2 (a)(3) the code requirements to have at least one well permit per development. The section of code also requires that the owner record a covenant that advises the new lot owner that well permits must be obtained, a well must be drilled, the water quality is satisfactory, and that water quantity is sufficient.

Secondary Water: The private well drilled will provide sufficient water for culinary and irrigation water needs.

Sanitary System: The Weber-Morgan Health Department has provided a feasibility letter stating that the site and soil evaluation is complete, and a wastewater disposal system is permissible. The feasibility indicates that lots 1, 3, and 4 qualify for an at-grade wastewater disposal system. Lot 2 qualifies to utilize a Wisconsin Mound or Packed Bed Media system.

Review Agencies: The Weber County Fire District has posted approval of the subdivision request with the caveat that further requirements are applicable at the time of home construction. Weber County Engineering states that all subdivision improvements planned in the public right-of-way shall be completed to a County standard. The Weber County Surveyors Office has posted reviews that will be addressed by a revised plat. The Planning Division is requesting road dedication for a full 66' or at least 33' for the creation of an intersection at approximately the mid-point of the block (see Exhibit A, dedication plat for Planning Staff's request).

Public Notice: All property owners of record within 500 feet of the subject property received notice by mail.

Staff recommends preliminary approval of Vista View Subdivision, consisting of four lots. The following conditions are included with the Planning Staff's recommendation:

1. The subdivision plan shall meet all Weber County reviewing agency requirements before recording the final Mylar.
2. The owner record a covenant to advise the new lot owner the well permits must be obtained.
3. The owner enters into a deferral agreement for curb, gutter, and sidewalk on 8600 East and 500 South, and a deferral agreement for curb, gutter, sidewalk, and asphalt for area dedicated on the north side of the development.

The following findings are the basis for the planning staff's recommendation:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision complies with the applicable County codes.

Chair Lewis invited input from the applicant.

Jeremy Draper, Reeve and Associates, addressed the information in the staff report regarding block lengths and the need for a future roadway on the north side of the property. As he looked at the feasibility of the roadway in the future, if the road were to continue eastward, there is an existing cul-de-sac that it will encounter within a few hundred feet. The feasibility of the road running further to the east is not high. As the road runs further to the west, there are issues with other property owners. The plot to the north is part of the subdivision already and getting an additional 33 feet for the roadway would be difficult. The applicant will sign deferral agreements for 8600 East for future roadway expansion, but for 500 South, the applicant would like the Commission to consider that they would only want to property to be accessed by 8600 East and they do not want to enter into a deferral agreement for 500 South at this time. The applicant is willing to work with staff to meet all other conditions recommended for the project.

Chair Lewis stated he feels the project is reasonable, but he does believe the County should require the deferral agreement on 500 South to facilitate the future development of a road in that area.

Commissioner Lackey asked if the project will connect to Huntsville City Water for residential water. Mr. Draper stated the plan is for each lot to have its own private well. Chair Lewis stated proof of water has been recorded for one of the lots, which indicates there should be water available for the rest of the project. Commissioner Lackey stated that the drilling report indicates that water is brown or gray from the top to 75 feet below the surface. He noted that Huntsville Water is very close to this project area and he wondered if it would not be better for the residents to connect to that system. Mr. Draper stated he will verify the location of Huntsville City Water infrastructure as he moves through the next steps in the County's approval process.

Commissioner Burton stated that the lots are very large and the frontage along 500 South is 659 feet; that is a lot of expense to put on this property when it is not using that street. He stated he feels that burden is onerous, and he is concerned about dramatically increasing the cost of development for the four homeowners in the project area. He added he feels Mr. Draper raises some good points about the viability of a street that runs east and west; it seems all traffic is running north and south in the area and he does not envision a road running further to the east or west. He asked what is to be gained by requiring the developer to dedicate land for that road. Mr. Lleverino stated that the requirements that staff has recommended are based upon standards in the County Code; the standards are based on good planning practices and intended to provide for the creation of blocks and roadways for future development. He stated the land is very wide open at this point and there is some likelihood that it will continue to develop in the future.

There was brief philosophical discussion and debate regarding the reasonability of requiring the developer to build 500 South; Commissioner Burton stated that a deferral agreement will apply to just four lots, when there are hundreds of other homes on the road and the residents of those homes use the roadway, is unfair.

Commissioner Lackey asked if both culinary and irrigation water will be supplied by wells. Mr. Draper answered yes; those plans will be verified as civil engineering for the project continues. Mr. Jensen added that he has 20 shares of irrigation water for the property; he intends to continue to grow hay on the property around the homes. His children will have the opportunity to build their homes on the property and they will be served by wells. He noted that the entire road improvement deferral cost will lie with him as he is simply subdividing his property for his family.

Chair Lewis invited public input.

Nicole Paulman stated she lives north of the subject property; she is unsure as to the purpose of the roadway that is included in the plan. It is designed to dead end into a field. She stated the area is very rural and there is very little traffic, and she is unsure the 'road to nowhere' is needed.

Chair Lewis stated the County is interested in requiring roads to provide for connectivity as the area develops in the future.

Commissioner Howell moved to approve **UVH021621: Consideration and action on a request for preliminary approval of Vista View Subdivision, consisting of four residential lots, based on the findings and subject to the conditions listed in the staff report.** Commissioner Lackey seconded the motion.

Chair Lewis clarified that the conditions listed in the staff report include a requirement for a deferral agreement for 500 South.

Commissioner Burton stated that he is still concerned with requiring the roadway; further to the west, there is a large amount of wet land area and other private property, the owners of which do not intend to allow the road to continue through. He stated the County will essentially be requiring the dedication of 33 feet, but the other 33 feet needed to accommodate the full right-of-way will not be available. This means that the County will need to maintain the 33 feet of dedicated space and it will not be used. He does not feel it is appropriate at this time. Chair Lewis asked if the area to the

north that is to be dedicated for a future roadway will be owned by the County. Mr. Lleverino stated it would be dedicated at the time of recording the final plat; it will be a dedicated easement for future right of way and the area would simply be preserved in the case the County deems a road in that area is appropriate at some point in the future. Chair Lewis stated that means the property owner would continue to maintain the property.

Legal Counsel Erickson stated that the motion stated is to leave the conditions as listed in the staff report, but it is necessary to correct the conditions to explicitly state that the owner is dedicating an easement rather than actually turning property over to the County.

Commissioner Howell amended his motion to clarify that an additional condition of approval is that the property owner shall dedicate an easement needed associated with the future development of a road to the north.

Vice Chair Francis asked how wide the easement will be, to which Mr. Lleverino answered 33 feet.

Commissioner Burton asked if the deferral agreement will be in effect in perpetuity. Mr. Lleverino answered yes. Commissioner Burton stated that means that if the road develops 50 years from now, the owner of the property at that time will need to pay for curb, gutter, sidewalk, and asphalt on 500 South and the street to the north. Mr. Lleverino stated that is correct.

Vice Chair Francis seconded the amended motion.

Chair Lewis called for a vote on the amended motion; Commissioner Lewis, Francis, Howell, Lackey, and Waldrip all voted aye. Commissioners Burton and Hogge voted nay. (Motion carried 5-2)

Commissioner Burton stated he feels the deferral agreement is onerous and improper.

### **3. Public Comment for Items not on the Agenda:**

There were no additional public comments.

### **4. Remarks from Planning Commissioners:**

Commissioner Howell commended Chair Lewis on the manner in which he conducts these meetings. Chair Lewis stated that some of these issues are very difficult and he thanked the Commission for their thoughtful consideration of each application and for the valuable input they provide.

### **5. Planning Director Report**

Mr. Grover stated that it is difficult to moderate public comments while meetings are being conducted in a virtual manner; he noted that there was an individual present in person for the meeting and he wanted to provide input regarding the last application item on the agenda. He indicated that he had some of the same concerns as the individual who spoke who lived north of the subject property. He stated he simply wanted to get these comments on the record.

### **6. Remarks from Legal Counsel**

There were no additional remarks from Legal Counsel.

## **WS1: Discussion regarding development proposal on the southwest corner of Old Snowbasin Road and Highway 39.**

Principal Planner Ewert presented the zoning map to identify the subject property; it is currently zoned Commercial Valley Recreation (CVR-1), which allows for commercial activities included in the resort zoning designations as well as up to 21 units per acre of residential development. The applicant is asking to amend the zoning map in a fashion that would reduce the number of units allowed in the project area; staff recommends adjusting the zoning to the FR-3 zone, which would allow residential lots (13). A previous plan approved for the project included several more residential lots as well as a hotel that would be governed by a development agreement.

The applicant, Jeff Allen with CW Group, used the aid of a PowerPoint presentation to provide information about projects completed in the past by his firm; he reiterated the request to rezone the property to reduce the density of the residential development. Lot sizes would be approximately 9,000 square feet and homes are intended to be vacation homes. He presented renderings of the project and elevations/floor plans that would be used in the project.

Mr. Ewert stated that staff has reviewed the application for compliance with the General Plan; they have also considered adjacent land uses and feel it would be appropriate to extend the zone change to other undeveloped properties in close proximity of the subject property. If there are no objections to the application at this time, staff will bring the application before the Commission at a future business meeting for action.

Planning Director Grover noted that staff has visited with representatives of Snow Basin Resort and they were not opposed to the zone change.

Chair Lewis asked if the residents living in the developments surrounding the subject property have been informed of the application. Mr. Ewert stated the applicant has spoken with some other residents as he has been performing his due diligence, but staff has not reached out to residents yet.

Vice Chair Francis stated she is aware of instances in the past where three large trucks have lost their brakes and have driven through the intersection without stopping. Chair Lewis stated that likely occurred at the end of Trappers Loop Road, but his project is on Old Snow Basin Road.

Chair Lewis suggested the applicant reach out to the president of the Homeowner's Association for existing projects in the area to discuss this proposal with them.

Commissioner Hogge referenced applications discussed earlier this evening and asked if this project will be similar to those with a private road and a desire for STRs. Mr. Allen stated that the project will be private and will be managed by a HOA; there will be two car garages and roadways with accommodations for off-street parking. Mr. Ewert stated that the County is working on an ordinance change that will govern private streets and he is hopeful that ordinance will be adopted before final development applications are submitted for this project.

Mr. Ewert stated that seeing no objections to the application, it will be included on a future business meeting for review and/or recommendation to the County Commission.

**Meeting Adjourned: The meeting adjourned at 7:48 p.m.**

**Respectfully Submitted,**

***Cassie Brown***



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Exhibit B – Staff Report to the Ogden Valley Planning Commission

#### Synopsis

##### Application Information

**Application Request:** Consideration and/or action on a conditional use permit for short term rental use at 3571 N Lakeview Ct. #76, Eden, UT, 84310  
**Agenda Date:** Tuesday, March 23, 2021  
**Applicant:** Collins F. Stevens III, Owner  
**File Number:** CUP2021-03

##### Property Information

**Approximate Address:** 3571 N Lakeview Ct. #76, Eden, UT, 84310  
**Project Area:** 0.03 acres  
**Zoning:** Forest Residential-3 Zone (FR-3)  
**Existing Land Use:** Residential  
**Proposed Land Use:** Short Term Rental  
**Parcel ID:** 22-370-0014  
**Township, Range, Section:** T7N, R1E, Section 22 SW

##### Adjacent Land Use

<b>North:</b>	Wolf Lodge Drive	<b>South:</b>	Residential
<b>East:</b>	Lakeview Court	<b>West:</b>	Creekside Way

##### Staff Information

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

#### Applicable Ordinances

- Weber County Land Use Code Title 101 Chapter 1 General Provisions, Section 7 Definitions
- Weber County Land Use Code Title 104 Chapter 17 (FR-3 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 7, section 25 (Nightly Rentals)

#### Summary and Background

The applicant is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR-3 zone at 3571 N Lakeview Court, #76, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive.

The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits.

#### Analysis

**General Plan:** As a conditional use, this use is allowed in the FR-3 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

**Zoning:** The subject property is located within the Forest Valley (FR-3) Zone. The purpose of the FR-3 Zone can be further described in LUC §104-17-1 as follows:

*“The purpose in establishing the Forest Residential, FR-3 zone is to provide for medium density residential uses of apartment clusters or condo-tels adjacent to and in conjunction with major recreational resorts, recreation areas and facilities in the mountain areas of Weber County on the basis that such medium density multiple-family housing is an integral and*

*normal part of a recreational resort complex catering to the needs of both tourists and permanent home ownership. This zone is intended to be used in mountain locations in areas associated with major recreational resorts.”*

The FR-3 Zone has specific standards identified in the LUC §104-17-5, as well as additional standards that are outlined throughout the LUC that shall be met as part of the development process. The applicable standards, for single-family dwellings, are as follows:

Parking shall occur only in designated areas

The current property has two parking spaces (one car garage and driveway) that were approved as part of the Villages at Wolf Creek Development.

**Conditional Use Review:** A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Prior to issuance of a conditional use permit, the applicant will need to apply for a business license, and approval from the applicable agencies for the proposal, will need to be obtained. A condition has been made part of the Planning Division’s recommendations to ensure that this standard is met.

Nightly Rental Ordinance: Under the current land use code, the section titled ‘Nightly Rentals’ states the following:

*The rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a nightly rental. Nightly rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD).*

### **Staff Recommendation**

Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

### **Exhibits**

- D. Application & Narrative
- E. Site Plans

## Area Map



## Exhibit A – Application & Narrative

### Application

[+ Add Building](#)[+ Add Parcel](#)[+ Add a Co](#)

#### Project Description

Nightly Rental within a planning area designated as "allowed with conditional use permit"

#### Property Address

3571 N Lakeview Ct #76  
Eden, UT, 84310 6809

#### Property Owner

Collin F Stevens III  
480-495-2659  
collin@rowadvisors.com

#### Representative

--

#### Accessory Dwelling Unit

False

#### Current Zoning

FR-3

#### Subdivision Name

Village at Wolf Creek

#### Number of Lots

#### Lot Number

76

#### Lot Size

.03 Acres

#### Frontage

18'

#### Culinary Water Authority

Wolfcreek Water Company

#### Secondary Water Provider

#### Sanitary Sewer Authority

Wolfcreek Sewer Improvement District

#### Nearest Hydrant Address

On Site

#### Signed By

Owner, Collin F Stevens III

#### Parcel Number

[✕ Remove](#)[223700014 - County Map](#)

Seeking a Conditional Use Permit for property zoned for Nightly Rental with an approved Conditional Use Permit.

The subject property is located within the newly constructed Village at Wolf Creek community. The property is a 4 bedroom, 2.5 bath home comprised of +/- 1,770 square feet.

The property has on-site parking comprised of an attached 2 car garage. The subdivision also contains unreserved uncovered parking in multiple locations in the development.

The property was acquired as a second home and the CUP is being sought to conduct short-term rental activity when not owner-occupied.



Weber County Western Weber County Planning Commission

**NOTICE OF DECISION**

March 24, 2021

Collins F. Stevens III  
3571 North Lakeview Ct. #76  
Eden, UT 84310

Case No.: Conditional Use Permit 2021-03

You are hereby notified that your CUP application for a short term rental was heard by the Ogden Valley Planning Commission in a public meeting held on February 23, 2021.

The Ogden Valley Planning Commission renders the following decision:

Denied

The reason for the decision:

1. The parking/safety impact of the short term rental cannot be adequately mitigated.

The decision of the Planning Commission may be appealed to the Board of Adjustment by filing such appeal within 15 days after the date of the notice of decision.



# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on an appeal of an administrative decision, made by the Ogden Valley Planning Commission, to deny an application of a conditional use request for a short term rental in a single-family dwelling in the Village at Wolf Creek 1<sup>st</sup> Amendment Subdivision (CUP 2021-01) located at 3563 North Creekside Way owned by Christian Manion. The allegation is that the Planning Commission erred in its decision to deny the request for a short term rental.

**Agenda Date:** Thursday, May 13, 2021

**Applicant:** Christian Manion

**File Number:** BOA #2021-01

### Property Information

**Approximate Address:** 3563 North Creekside Way, Eden, UT, 84310.

**Project Area:** 0.03 Acres

**Zoning:** Forest Residential Zone (FR-3)

**Existing Land Use:** Residential

**Proposed Land Use:** Residential-Short term Rental.

**Parcel ID:** 22-370-0007

**Township, Range, Section:** T7N, R1E, Section 22 SW

### Adjacent Land Use

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Lakeview Court	<b>West:</b>	Creekside Way

### Staff Information

**Report Presenter:** Tammy Aydelotte  
taydelotte@webercountyutah.gov  
801-399-8794

**Report Reviewer:** SB

## Applicable Ordinances

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 17 (Forest Residential)
- Weber County Land Use Code Title 108 (Standards) Chapter 4 (Conditional Uses)

## Background

### Request and General Project Information

The appellant (Mr. Manion) is requesting an appeal of a land use decision made by the Ogden Valley Planning Commission on March 23, 2021. The decision in question is a denial of a conditional use (CUP 2021-01) request for a short term rental, submitted by Christian Manion where, when not in use by the property owner, the single-family dwelling would be used as a short-term rental, as allowed in the FR-3 zone under conditional uses. See Exhibit A for the Mr. Manion's appeal form, a copy of Mr. Manion's Conditional Use Permit application, and approved minutes from the 3-23-2021 Ogden Valley Planning Commission Meeting. See Exhibit B for the original Planning Division staff report packet reviewed by the Planning Commission on March 23, 2021. The staff report included a recommendation for approval by Planning Staff. See Exhibit C for the Notice of Decision (dated 3-24-2021) that summarizes the Planning Commission's findings for the denial.

The outcome, if Mr. Manion's conditional use request is approved, would be the allowance of a short-term rental, in a zone that allows short-term rentals as a conditional use. The subject parcel is located at approximately 3563 North Creekside Way, Eden, UT. It sits within the Forest Residential (FR-3) Zone. The FR-3 Zone allows short-term rentals as a conditional use.

**The following section of the county land use code was brought up by county staff as the Planning Commission considered Mr. Manion's conditional use application:**

**LUC 108-4-4 Conditional Use Decision Requirements**

1. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards of this chapter, or relevant standards or requirements of any other chapter of this Land Use Code. When considering any of the standards, the land use authority shall consider the reasonably anticipated detrimental effects of the proposed use in the context of current conditions and, to the extent supported by law, the policy recommendations of the applicable general plan.
2. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

**Role of Board of Adjustment**

The Board of Adjustment's role, in this appeal, is described in §102-3-3 (Duties and powers of the board) and §102-3-4 (Decision criteria and standards) of the Weber County Land Use Code and is provided below with bold text marking applicable language:

**Sec. 102-3-3. - Duties and powers of the board.**

***The board of adjustment shall have the following duties and powers:***

***(1) To act as the appeal authority from decisions applying and interpreting this Land Use Code and Zoning Maps.***

***(2) To hear and decide variances from the requirements of the Land Use Code.***

**Sec. 102-3-4. - Decision criteria and standards.**

***(a) Appeals from decisions applying and interpreting the Land Use Code and Zoning Maps.***

***(1) The board of adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code and Zoning Maps.***

***(2) The board of adjustment may hear only those decisions in which the land use authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel.***

***(3) The appellant has the burden of proof that the land use authority erred.***

***(4) All appeals to the board of adjustment shall be filed with the planning division not more than 15 calendar days after the date of the written decision of the land use authority.***

***(5) Appeals to the board of adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.***

***(b) Variances from the requirements of the Land Use Code.***

**Application History**

Below is Mr. Manion's project history:

2-3-2021	Christian Manion submits a Conditional Use Permit application (CUP2021-01) to the Weber County Planning Division.
3-23-2021	Ogden Valley Planning Commission denies application for a conditional use permit.
3-30-2021	Christian Manion submits a Board of Adjustment Application to the Weber County Planning Division.

## Summary of Board of Adjustment Considerations

- Do the items described in Mr. Manion's appeal warrant overturning the Ogden Valley Planning Commission (3-23-2021) decision to deny Mr. Manion's Conditional Use request (CUP2021-01).
- Based on §108-4-3 (provided above), can the BOA find (in the record) that the Planning Commission erred in appropriately identifying circumstances, that cannot be mitigated, to support the Planning Division's (3-23-2021) decision to deny Mr. Manion's request for a Conditional Use permit?

## Exhibits

- A. Mr. Manion's appeal to the Weber County Board of Adjustment. This Exhibit includes Mr. Manion's BOA application form, a copy of Mr. Manion's Conditional Use Permit application, and minutes from the 3-23-2021 Ogden Valley Planning Commission Meeting.
- B. Planning Division staff report packet that provides Mr. Manion's Conditional Use information and findings that form the basis for the denial issued on March 23, 2021.
- C. Notice of Decision that summarizes the Planning Commission's findings for the denial.

## Vicinity Map



## Exhibit A – Board of Adjustment Application

### Manion-Christian-Board of Adjustment

[+ Add Follower](#)[✎ Change Status](#)[✎ Edit Project](#)

**Address:** 3563 North Creekside Way Eden, Eden, UT, 84310  
**Maps:** [Google Maps](#)  
**Project Type:** Board of Adjustment  
**Sub Type:** Board of Adjustment  
**Created By:** [Christian Manion](#)  
**Created On:** 3/25/2021  
**Project Status:** Accepted  
**Status Date:** 4/6/2021  
**File Number:** BOA 2021-06  
**Project Manager**

[📁 Application](#)[📄 Documents 5](#)[💬 Comments 1](#)[🗣️ Reviews 0](#)[👤 Followers 3](#)[⚙️ Status](#)[🔔 Notifications](#)

### Application

[+ Add Building](#)[+ Add Parcel](#)[+ Add a Contractor](#)[✎ Edit Application](#)[🖨️ Print](#)

**Project Description** Appeal - Conditional Use Permit Application for Short Term Rental

**Property Address** 3563 North Creekside Way Eden  
Eden, UT, 84310

**Property Owner** Christian Manion  
661-600-7235  
manionchristian@gmail.com

**Representative** Christian Manion  
661-600-7235  
manionchristian@gmail.com

**Accessory Dwelling Unit** False  
**Current Zoning** FR-3  
**Subdivision Name** The Villages at Wolf Creek  
**Number of Lots**  
**Lot Number** 22-370-0007  
**Lot Size** .05  
**Frontage**  
**Culinary Water Authority**  
**Secondary Water Provider**  
**Sanitary Sewer Authority**  
**Nearest Hydrant Address**  
**Signed By** Owner, Christian Manion

#### Parcel Number

[✖ Remove](#) 22-370-00 - [County Map](#)

## Manion-Christian-Conditional Use Permits

[+ Add Follower](#)[✎ Change Status](#)[✎ Edit Project](#)

**Address:** 3563 North Creekside Way, Eden, UT, 84310  
**Maps:** [Google Maps](#)  
**Project Type:** Conditional Use Permits  
**Sub Type:** Conditional Use Permits  
**Created By:** [Christian Manion](#)  
**Created On:** 1/19/2021  
**Project Status:** Accepted  
**Status Date:** 1/26/2021  
**File Number:** CUP 2021-01  
**Project Manager:** [Tammy Aydelotte](#)

[Application](#)[Documents](#) 4[Comments](#) 1[Reviews](#) 1[Followers](#) 4[Status](#)[Notifications](#)

### Application

[+ Add Building](#)[+ Add Parcel](#)[+ Add a Contractor](#)[✎ Edit Application](#)[Print](#)

**Project Description** Nightly Rental in The Villages

**Property Address** 3563 North Creekside Way  
Eden, UT, 84310

**Property Owner** Christian Manion  
661-600-7235  
[manionchristian@gmail.com](mailto:manionchristian@gmail.com)

**Representative** Christian Manion  
661-600-7235  
[manionchristian@gmail.com](mailto:manionchristian@gmail.com)

**Accessory Dwelling Unit** False  
**Current Zoning** FR-3  
**Subdivision Name** The Villages at Wolf Creek  
**Number of Lots**  
**Lot Number** 22-370-0007  
**Lot Size** .05  
**Frontage**  
**Culinary Water Authority**  
**Secondary Water Provider**  
**Sanitary Sewer Authority**  
**Nearest Hydrant Address**  
**Signed By** Owner, Christian Manion

#### Parcel Number

[✖ Remove](#) 22370007 - [County Map](#)

Minutes of the Ogden Valley Planning Commission Meeting for March 23, 2021. To join the meeting, please navigate to the following weblink at <https://us02web.zoom.us/j/88084532783> the time of the meeting; commencing at 5:00 p.m.

**Present:** John Lewis, Chair; Shanna Francis, Vice Chair; Jeff Burton, Chris Hogge; John (Jack) Howell, Ron Lackey, Steve Waldrip.

**Absent/Excused:** None

**Staff Present:** Rick Grover, Planning Director; Courtlan Erickson, Legal Counsel; Steve Burton, Planner; Tammy Aydelotte, Planner; Felix Lleverino, Planner; Scott Perkes, Planner.

- **Pledge of Allegiance**

- **Roll Call:**

Chair Lewis asked if anyone had any ex parte communication or conflict of interest to declare. No disclosures were made.

**1. Approval of Minutes for February 23, 2021.**

Commissioner Hogge moved to approve the minutes of the February 23, 2021 meeting as presented. Vice Chair Francis seconded the motion. Commissioners Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0).

**2. Petitions, Applications, and Public Hearings.**

**2.1 CUP 2021-06: Request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development. Staff Presenter: Steve Burton; Applicant: Conley Hubert**

Steve Burton reported the applicant is requesting to amend the conditional use permit for the Village at Wolf Creek PRUD, specifically the required house types associated with the single-family lots. The proposed amendments will apply to the following lots: Lot 3, 5, 7, 9, 11, 12, 14, 15, 16, 17, 18, 23, 25, 26, 32, 33, 34, and 35. The owners of lots 24 and 29 have also been included on the proposed amendment. The original house types for each lot were proposed by the original developer in 2000 and were amended once in 2005. The application is being processed as an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the Planning Commission to review and approve applications for conditional use permits and design reviews. The established use of the property, as higher density residential, is not proposed to change. The only proposed changes are to the house types that were previously approved. Planning staff does not feel that the proposed changes to the house types are contradictory to the general plan. The subject property is in the FR-3 zone, which allows a Planned Residential Unit Development with a conditional use permit. As part of this conditional use review, staff reviewed the existing house types that have been approved for the applicable lots. He referenced exhibit A to the application, which is a site plan showing the existing house types that are approved for each lot. Exhibit A also includes building elevations and floorplans that were established for each unit from the original approvals. The proposed amendment would remove the requirement of specific floor plans, as well as specific elevations. The applicant is proposing to have general standards that each dwelling would need to implement. The applicant has included general elevations of what the buildings would look like, under the proposed standards. The proposed building elevations have similar features to the previously approved units, including similar roof pitches and exterior materials. The applicant proposes to include fiber cement siding, natural wood siding, stucco, brick, and stone as acceptable building materials. The amendment includes a request to have a building height allowance of 45 feet. Staff recommends restricting the building height to 40 feet, as 40 feet is allowable in similar developments such as cluster subdivisions. The proposal includes language that would require any accessory buildings to have identical materials as the dwelling. The proposal also includes language that allows only brick, stone, wrought iron, and vinyl fences. As part of the amendment, the applicant has requested a short-term rental (STR) approval for all of the lots included in this amendment. Short term rentals are currently a conditional use within the FR-3 zone. Instead of each individual applying for a separate STR permit, the developer would like to market the lots as already approved for STR. Given that each unit will have the required 2 parking spaces, Planning Staff recommends that this development receive an overall approval (for only the lots on this application) for STRS. Steve Burton concluded staff recommends approval of this conditional use application subject to all review agency requirements and the following conditions:

1. Average building height cannot exceed 40 feet.



2. A notice must be recorded to each of the lots in this amendment, indicating which changes were made as part of this approval. The notice must be prepared and approved by the Planning Division prior to receiving the conditional use permit amendment.

This recommendation is based on the following findings:

1. The Planning Commission has considered the conditional use standards and has imposed reasonable standards to mitigate any detrimental impact to the surrounding area.

Steve Burton added that the staff report does not reference a specific restriction for building colors for homes to be built in the project area, but staff would like to include a condition that the color palette for new homes be muted, earth tone colors to fit in with the surrounding area.

Chair Lewis invited input from the applicant.

The applicant was not present.

Commissioner Hogge referenced the lot layout plan that was initially approved and indicated that each lot contains the name of the housing type that was intended to be constructed thereon; he asked if the intent of the original approval was to require specific housing types on specific lots. Steve Burton answered yes; the original plan was very detailed and that was the intent. The purpose of the current application is to eliminate that requirement to allow for any one of the three building types presented to be constructed on any lot. Commissioner Hogge inquired as to the number of buildings that have already been built. Steve Burton displayed a Google Earth image for the Commission to get an understanding of the current number of homes that have been built. Chair Lewis added that just six or seven houses have been built. Steve Burton clarified that actually 10 buildings have been built to date.

Commissioner Burton referenced the standard regarding dwelling quality and exterior materials; the standard indicates that fiber cement siding and natural wood siding can be used, but the next sentence indicates a dwelling's front exterior should not be constructed of 100 percent fiber cement siding and he asked if the applicant is seeking to uphold that restriction and to use rock or brick to compliment fiber cement siding. Steve Burton stated it was his understanding the applicant was seeking approval to use 100 percent fiber cement siding on the front elevation of a home. He reviewed the application further to determine what the applicant is requesting; he indicated it may be necessary to ask for clarification from the applicant. Commissioner Burton then referenced the request to allow STRs at the property and noted the applicant indicated there will be two parking spaces per rental; he asked if that is sufficient parking for the proposed use. Steve Burton stated that for a single-family dwelling, staff recommends a minimum of two parking spaces. Commissioner Burton stated that the vacation rental properties may be filled with groups of people and he wondered if two parking spaces is sufficient to keep people from parking on the street. Steve Burton stated that staff is comfortable with the parking accommodations proposed by the applicant, but the Planning Commission has the authority to consider increased parking accommodations. Commissioner Burton stated that the Commission has discussed parking standards for STRs over the past several months and he wants to rely upon a firm standard for the number of parking spaces truly needed for a rental property, perhaps based upon the number of bedrooms in the property. Steve Burton reiterated the Commission can consider that matter further, but staff was relying upon the current ordinance when evaluating this application; the current ordinance requires a minimum of two parking spaces for a single-family dwelling. Each unit has a two-car garage and parking would be allowed on the driveway approach to the garage, so it would technically be possible to park three to four cars off the street.

Vice Chair Francis stated she may be comfortable with this type of recommendation on a regular street where there is sufficient room for on-street parking, but the streets in this project are so narrow and on-street parking will cause problems. She feels it is necessary to mitigate that issue for this project. Steve Burton agreed, but noted that the streets in the project area are private street and there should not be a great deal of public traffic. He stated it would be necessary to have a clear understanding of any parking issues that presently exist in the project and at this point it may be difficult to document those issue since STRs currently are not operated in the project area. Vice Chair Francis stated that she is aware there is at least one STR property in the project area.

Chair Lewis then stated that when this project was assembled several years ago, the theme was rustic and rural; however, it has changed ownership several times and the plans for the project have been modified, which has left it with a 'hodge-podge' of different themes and color palettes. He stated that transitioning to modern architecture and stark-white color palates will cause further disconnection and he does not feel the new homes will blend with their surroundings. Additionally, there are no other homes in the area that are taller than 35 feet and he would strongly recommend that the increased building height not exceed 35 feet in this project. He stated he supports conditional approval of the application, restricting building heights to 35 feet, maintaining the mountain rustic and craftsman themes, and avoiding



the white color palate in favor of continuing earth tones or mountain rustic tones. He then noted he is not sure that the County can restrict STRs in the project area since the use has been allowed in surrounding areas. Given that the project is private and is managed by a homeowner's association (HOA), the on-street parking issue should be addressed by the HOA.

Commissioner Howell inquired as to the total number of STRs in the project area. Steve Burton stated Vice Chair Francis indicated there is one STR in the project.

Commissioner Waldrip asked if the only requested deviations from the approved plan for this project relate to building height and building color/design. Steve Burton stated the applicant has also requested an amendment that would eliminate the requirement for a floor plan to be submitted to the County for approval.

Chair Lewis invited public input.

John Bingham, 3483 Willowbrook Lane, stated he is aware of at least two homes in the project that are STRs; one of the homes was reported to have as many as 15 people staying at the home and three boats parked on the street. He stated that may not be problematic when there are just one or two STRs in the project, but if all units can be used as STRs, on-street parking will absolutely become an issue. He also referenced Steve Burton's comment that cars could be parked on the driveway approach for the garages and indicated he does not think the driveways are deep enough to accommodate vehicles, especially longer vehicles. He suggested the County review the setbacks and lengths of the driveways before relying upon the presence of driveways to accommodate off-street parking. He suggested that the Commission consider an additional condition of approval that the applicant be required to provide additional parking areas within the project to accommodate the potential for an increase in STRs. He noted he believes those operating a STR in the project area are unaware that they need a business license for that use.

Miranda Menzies, 3807 North Elkrige Trail, stated her concern is twofold; the project is essentially the gateway to the Wolf Creek Resort and, therefore, has the potential to impact the property values of all properties within the resort. If this development appears to be one of pandemonium, it will impact surrounding properties. She stated the amendment of the regulation for how a building height would be measured resulted in opportunities for actual building heights to be 40 feet, based upon an average building height of 35 feet. She asked that the Commission consider a true 35-foot building height for homes in this project. She also asked them to consider the impact that operating a large number of STRs in the project area will have on the safety of the rest of the residents; the narrow road width coupled with on-street parking will impact safety of other residents and make it difficult for public safety apparatus to access homes.

Ray Bertoldi, 4828 E. 3650 N., stated he lives just above this development and he echoed the comments made by Ms. Menzies regarding the need to keep the building height at or lower than 35 feet as taller buildings would not be harmonious with the area. He stated he can look out his window at the homes that have already been built and he has concerns about the white color scheme, bright lighting, and building heights; he is concerned that those issues will worsen based upon this new proposal. He stated he is also concerned about the traffic and on-street parking; when a vehicle is parked on the street, there is only one lane of traffic available for motorists. He noted that STRs are not allowed in the Patio Springs project, but the subject property is directly adjacent to Patio Springs and it would be problematic for STRs to be allowed there. He emphasized his concerns about an increase in traffic and how that will impact the safety of current residents. He reiterated Ms. Menzies comments that this project is the gateway to Wolf Creel and the County needs to be sensitive to the impact the project will have on other properties.

There was no additional public input.

Vice Chair Francis asked if it is possible to impose a condition requiring the applicant to eliminate a few building lots in order to build community parking areas on the site in order to address the concerns about on-street parking and increased traffic associated with STRs. Steve Burton stated that staff does not feel it is reasonable for the Commission to impose that restriction; it would be necessary to first prove an actual detriment associated with the parking scenario. However, the County can prohibit on-street parking and this would become an enforcement issue. If the prohibition is not observed, the CUP could be revoked for STRs. Planning Director Grover noted the Commission could require that the driveways are long enough to accommodate parking of vehicles in front of the two-car garages; if that is not possible, units not meeting that condition could not be used as STR properties. Steve Burton agreed and noted that would require a finding that four parking spaces are needed for STR properties; this would include the two parking spaces in the garage and the two in the driveway approach. Commissioner Lackey noted that this condition would address parking of typical vehicles, but if a person staying in the STR brings a boat or trailer with them, they will not be able to park in the driveway and their only option would be to park on the street. Chair Lewis inquired as to the road widths in the project, to which Steve Burton answered 40-feet. Chair Lewis stated that means the park-able surface is 18 feet; he stated that if a boat

or truck is parked in the street, it will not be passable by a public safety vehicle. Mr. Grover stated that a finding prohibiting on-street parking should be based upon the need to ensure adequate public safety response to emergencies in the project area.

The Commission and staff reviewed an aerial image of the project area, focusing in the road layout in the project and the difficulties that will be created if vehicles are parked on the street. Chair Lewis stated he does not believe this project was ever conceived as being open to nightly rentals, especially since it is located in a single-family area. The Commission is being asked to amend the CUP for the project and the Commission is not required to grant that request; he does not believe building heights should exceed 35 feet, the color palate/building themes should not be changed, and STRs should not be allowed as the project was not designed for that use. Steve Burton noted the Planning Commission is acting as a recommending body to the County Commission. Chair Lewis suggested that the Commission's recommendation be subject to the conditions he noted above.

Commissioner Waldrip asked if the County can require for signage to be installed in the project area to notify visitors that on-street parking is not allowed. Mr. Grover stated that signage can be required for safety purposes; if the Commission feels that on-street parking associated with the STRs creates a life-safety issue, they can recommend denial of the CUP. However, if they feel that conditions can be imposed that will mitigate these concerns, such conditions of approval can be recommended to the County Commission. Commissioner Waldrip stated that there are many STRs in close proximity to the subject property and allowing more STRs is not necessarily the issue; the issue is that the STRs will create an increase in on-street parking, which impacts safety of the entire area. He feels on-street parking can be prohibited, but that will be difficult to enforce without appropriate signage. Chair Lewis disagreed; most people will not obey a sign, particularly when they are just a visitor to the area. He added that property owners in the project area know they are not allowed to operate a STR in the project area, but they are still doing it. Visitors to those STRs should also know they should not be parking on the lawn of the home they are staying in, but they are still doing that as well.

Commissioner Burton asked if there are areas set aside for guest parking in the area. Steve Burton answered yes and identified those areas on the aerial image of the project.

Chair Lewis asked if the original declarant for the project is still intact or if the HOA is now being managed by actual homeowners in the project area. Steve Burton stated the latter is the case.

Commissioner Howell moved to recommend approval of CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Prior design standards, including earth tone color scheme and housing types, remain in effect.
- Requiring four off-street parking spaces per unit, two in the garage and two on the driveway;
- Prohibiting on-street parking for safety purposes;
- STR approval applies only to the lots in this petition; and

Commissioner Waldrip seconded the motion.

Chair Lewis stated he does not feel allowing nightly rentals in the project area is appropriate; many people visiting the area will bring a boat with them in the summer or snowmobiles in the winter, and they will need to park on the street. Additionally, he feels strongly that the previously approved building theme should be observed in the project, and that building heights should not exceed 35 feet. Vice Chair Francis, Commissioner Burton, and Commissioner Lackey agreed. Commissioner Burton referenced the small notches for visitor parking in the roadway on the original plan; he asked if there is any mechanism in the original approval of the project that requires on-street parking to occur in those notches. Chair Lewis stated that was likely part of the original approval to require 1.75 parking spaces per unit. Commissioner Burton asked if the HOA can eliminate those parking spaces and prohibit on-street parking. Mr. Grover stated those visitor parking areas are shown on the approved site plan and the HOA must observe that plan unless it is appropriately amended. There is also a trail required as part of the open space requirements for the project. Commissioner Burton asked how the County can prohibit on-street parking if the developer is required to include the parking notches on the street. Mr. Grover stated that parking could be allowed in the pull-out areas, but not on the side of the road. Commissioner Burton stated that the County can restrict parking in the private right-of-way if it is associated with a STR; however, if an actual homeowner wants to park on the street, he does not believe the County can prohibit that. Commissioner Burton asked if the HOA can prohibit that, to which Steve Burton answered yes. Commissioner Burton asked if the Fire Marshall has provided a recommendation regarding on-street parking. Steve Burton answered yes; the Fire Marshall has reviewed the project and did not identify any issues.

Chair Lewis called for a vote on the current motion; Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted nay. (Motion failed 6-0)

Commissioner Lackey stated he supports the idea of requiring signage in the project area prohibiting on-street parking. Chair Lewis asked if signage should be required for residents and STR visitors alike. Commissioner Lackey stated that if the prohibition of on-street parking is truly based on safety, it should be required regardless of the person parking on the street. Chair Lewis stated it may be somewhat onerous to prohibit on-street parking for actual residents of the development and that is likely something that should be addressed by the HOA. Commissioner Lackey agreed and suggested that signage be required if STRs are going to be allowed.

Commissioner Howell asked if the Commission can prohibit STRs at a property where four off-street parking spaces cannot be provided. Chair Lewis stated that is possible, but he is concerned about visitors to a STR property arriving with a trailer because they were not aware of or did not observe the on-street parking prohibition.

Vice Chair Francis made a motion regarding CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development; she moved to approve the request to change the architecture of homes to be built in the project, deny the request to change the color scheme of the project and uphold the earth tone color scheme, deny the request for STRs in the project based on the use creating a life-safety issue.

Chair Lewis stated the Commission needs to either deny the application or approve it with conditions. Vice Chair Francis stated she actually wishes to deny the application outright.

Vice Chair Francis amended her motion; she moved to deny CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development. The motion died for lack of a second.

Chair Lewis stated it is his suggestion that the Commission recommend approval of the application subject to limiting building heights to 35 feet, using earth tones rather than a white color scheme, allowing mountain rustic and craftsman building styles, but not mountain modern, and denying the STR use. Legal Counsel Erickson stated that STRs are a conditional permitted use in the zone and denial of the use must be based on a finding as specified in the County Code as follows: “the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal; or the imposition of reasonable conditions to achieve compliance with applicable standards.” He stated that a motion to deny must clearly include language that there are findings that detrimental effects cannot be substantially mitigated. Chair Lewis stated the reason he feels that the detrimental effects associated with STRs cannot be substantially mitigated are that there will be on-street parking and that is not reasonable on such a narrow road. Unless someone can tell him how to mitigate a very narrow road, he does not believe STRs can be approved.

Commissioner Waldrup moved to recommend approval of CUP 2021-06, request for approval of a conditional use permit amendment to amend the house types for single family lots within the Village at Wolf Creek Development, based on the findings and subject to the conditions listed in the staff report, and based on the following additional conditions:

- Average building height cannot exceed 35-feet;
- Proposed house types approved, with the exception of mountain modern;
- Colors used in the CUP area do not allow for white exterior coloring;
- STRs are not approved based on the finding that the narrow streets in the project cannot accommodate on-street parking, which is likely guaranteed if nightly rentals are allowed. This detrimental effect is impossible to mitigate, and it is not possible to ensure adequate travel lanes for emergency vehicles when on-street parking occurs.

Chair Lewis asked for a friendly amendment to limit the color palate for the project to earth tones, specifically excluding white. Commissioner Waldrup accepted the friendly amendment.

Commissioner Burton seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

Chair Lewis stated this was a difficult issue and the Planning Commission does not enjoy denying applications, but he feels the denial is based on preserving the safety of the surrounding neighbors and upholding previous approvals that govern the appearance of the project. Commissioner Lackey added that another thing for staff to consider when looking at development applications similar to this one is that owners of this type of home that will be used for a STR typically store their belongings in the garage and do not give renters access to that space; therefore, there are not actually two

usable parking spaces in the garage. Commissioner Burton agreed that is typically the case; if there were a condition of approval requiring access to the garage for parking, the owners would not be able to do that. Chair Lewis added he would have voted for nightly rentals in the project area if the streets were not so narrow.

**2.2 CUP2021-03: Request for approval of a conditional use permit for short term rental use within an existing dwelling located**

**at 3571 N Lakeview Court #76, Eden, UT, 84310 in the FR-3 zone. Staff Presenter: Tammy Aydelotte; Applicant: Collin Stevens; &**

**2.3 CUP2021-01: Request for approval of a conditional use permit for short term rental use within an existing dwelling located**

**at 3563 N Creekside Way, Eden, UT, 84310 in the FR-3 zone. Staff Presenter: Tammy Aydelotte; Applicant: Christian Mannion**

Planner Aydelotte reported the applicant for application CUP2021-03 is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR3 zone at 3571 N Lakeview Court, #76, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Planner Aydelotte reported the applicant for application CUP2021-01 is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR3 zone at 3563 Creekside Way, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive. The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits. Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development.

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

Ms. Aydelotte noted that she has confirmed with the applicants that their garage will be accessible to renters for the purposes of accommodating off-street parking. Vice Chair Francis stated she thought that the homes in this project area only have single car garages. Ms. Aydelotte stated there are some that have just a single car garage, but the home under application CUP2021-03 has a two-car garage. She noted the home under application 2021-01 is for a home with a single-car garage.

Commissioner Burton asked if the single-car garage units are smaller units, to which Ms. Aydelotte answered yes; she noted all units have four bedrooms, but the units with single-car garages are smaller in terms of square footage.

Chair Lewis invited input from the applicants.

Collin Stevens stated he is the property owner; it is a three-bedroom unit, and the basement can be used as an additional bedroom space. It is 1,770 square feet with a two-car garage. He does own a vehicle in Utah, but when he is not at the property the vehicle is kept in a storage space near the Salt Lake City airport.

Commissioner Burton asked if the basement is built out. Mr. Stevens answered yes; it has a bedroom and bathroom, but appraisers do not count basement dwelling rooms as bedroom spaces. There are three bedrooms on the top floor of the unit. The Fire Marshall has capped the occupancy of the unit at 10 individuals.

Commissioner Howell inquired as the amount of space in front of the garage. Mr. Stevens stated his unit does not have a driveway to accommodate off-street parking. Commissioner Burton asked where renters will park when visiting the property. Mr. Stevens stated they can park in the two-car garage and there are additional first-come, first-serve visitor parking spaces within the development. Ms. Aydelotte stated there are 18 additional guest parking spaces on the site and there are 27 total units in the project. Commissioner Howell asked if some of the units do have parking spaces in front of their garages. Ms. Aydelotte answered yes; some units do have parking spaces, but the subject property does not.

Chair Lewis asked if there is a snow storage plan for the project area. He asked where snow will be placed in the event of a storm that requires snow removal. Ms. Aydelotte stated the site plan does identify a snow storage area, but she is unsure the HOA is observing that plan and preserving the visitor parking spaces during a storm. Chair Lewis stated that similar to the previous application, he is concerned about safety and he is unsure how STRs can be operated in a project with so little visitor parking. Mr. Stevens stated that he does not believe that boat or RV parking is allowed on the site based upon the covenants, conditions, and restrictions (CCRs) for the project; additionally, snow removal was not a problem this winter.

Commissioner Burton asked what kind of parking requirements would be imposed on a hotel. Chair Lewis stated the County Code requires 1.75 parking spaces per unit for this type of project. Commissioner Burton stated he understands that requirement but asked about the parking requirements for each room in hotel project. Ms. Aydelotte stated hotels are required to provide one parking space per two sleeping units.

Mr. Stevens stated the CCRs for the project restrict trucks over  $\frac{3}{4}$  ton, trailers, campers, and boats unless they can be parked and maintained in a garage space. Commissioner Burton asked if there are garages large enough to house boats or trailers. Mr. Stevens stated that for purposes of this discussion, it is important for the Commission to understand that the CCRs clearly state that boats or trailers cannot be parked anywhere on the site and visitors would need to find other accommodations. Commissioner Lackey stated that there are not many types of boats that would fit in the garages in this project area. Mr. Stevens stated there is an active property management company employed by the HOA that enforces the CCRs for the project. Ms. Aydelotte stated staff performed a site visit to this project area and found the only vehicles parked on the roadways were associated with the actual construction of the units.

Chair Lewis asked how many single-car garage units there are in the project. Ms. Aydelotte stated she does not have that information readily available.

Commissioner Burton stated the matter for the Commission to consider is whether operating the units as nightly rentals will impact the overall safety of the area. Legal Counsel Erickson stated that the Commission should consider whether they can impose reasonable conditions that would mitigate safety issues. He stated that compliance with CCRs may mitigate the concerns. Chair Lewis stated the problem is that everyone is aware of how nightly rentals operate; the

renters will arrive with multiple vehicles and perhaps recreational vehicles. The County can impose rules, but visitors staying in the area for just a few nights will not observe those rules. He stated that if the project layout were different and could accommodate visitor parking as well as snow storage, or if the roads were wider and could accommodate on-street visitor parking, he may feel differently, but at this point he does not feel that it is possible to mitigate the safety concerns.

Ms. Aydelotte asked if conditions can be imposed or a denial issued based upon an assumption that the conditions or laws will be violated at some point in the future. Mr. Erickson stated that credible evidence must be present to support the conditions that are being imposed. Chair Lewis stated he lives next door to a property that is operated as a STR; the five cars that are parked at the home when it is illegally rented is credible evidence to him. Vice Chair Francis added that those who live in Eden and are familiar with properties that are being offered for nightly rentals can attest to the average number of vehicles associated with each rental.

Chair Lewis invited public input.

Ray Bertoldi stated his observations as he has driven the road that goes by this property nearly every day since he moved to Eden include a number of vehicles parked on the street for just one unit and he feels this problem will only worsen as the project is built out and there are more residents living or renting there. He stated that 18 extra spaces for 27 units is not enough to accommodate STRs. He is also concerned about snow storage; snow is pushed out of the development onto Wolf Lodge Lane because it cannot be stored on-site. There are always vehicles with trailers parked on Wolf Lane Drive; this activity is associated with Wolf Lodge but will only become worse if STRs are allowed in the subject property. Just this morning when he was driving, he had to pull off to the side of the road to avoid a head-on collision that would have been the result of on-street parking. The vehicles that are parked on the site and on the roadway are not just construction vehicles, but they are associate with people living in the neighborhood at present.

John Bingham stated that just two units have been sold and there are two applicants for STRs; there is a possibility that the additional 25 units will apply for STRs in the future. This should not be a first-come, first-serve type of situation; either the development is designed for STRs or it is not and because of the parking at this site, he does not think STRs make sense in this case. There are too many unknowns and he feels the application should be denied until the County can develop standards that apply to STRs across the board and can be enforced.

Miranda Menzies stated she agrees with Mr. Bertoldi's comments and she has had similar experiences associated with the current on-street parking conditions. She stated the staff report indicates there is ample guest parking along Wolf Creek Drive, but she believes that is an error; Wolf Creek Drive is also State Route 158 and if people begin parking along that road, the Utah Department of Transportation (UDOT) will respond and prohibit it. She added that guest parking areas need to be indicated by clear signage and possibly be made available to guests only. She asked if Mr. Bingham's point is valid that STRs should either be allowed or prohibited in the entire area, rather than the County considering applications for single units in the project. She asked how the County could approve one or two applications for a STR but deny future applications. She wondered if approval of these applications would set a precedent for future applications. She also asked if a STR ordinance to be adopted at some point in the future will apply retroactively to properties that are already being operated as a STR, or if those properties will be grandfathered under earlier ordinances or approvals.

There was no additional public input.

Chair Lewis reiterated his feeling that allowing STRs in the project will create unsafe conditions; the design of the project was conceived long before the idea of allowing STRs therein and he is not sure how to mitigate the detrimental effects of the application. He noted he does not believe that the County would be required to approve STRs for all units if approval is given for one or two.

Vice Chair Francis added that when the project was initially approved, it was given an exception to allow less parking than is normally recommended for this type of project.

Commissioner Burton stated that while the zoning allows STRs as a conditional use, the developer chose to pursue very small streets and limited parking and those conditions are not conducive to operating a STR.

Commissioner Burton moved to deny CUP2021-03: Request for approval of a conditional use permit for short term rental use within an existing dwelling located at 3571 N Lakeview Court #76, Eden, UT, 84310 in the FR-3 zone, based on the following findings:

The layout of the development is not conducive to the STR rental use as the use would result in an increase in on-street parking.

The CCRs for the HOA do not reasonably address the matter of visitor parking and the presence of trailers and recreational vehicles on the site.

Winter 2020-21 was very mild, but that is not the norm and during a horrible winter, there will not be sufficient snow storage on the site; with a large amount of snow and on-street parking on the site, it would be difficult for emergency vehicles to access the area.

Commissioner Howell seconded the motion. Commissioner Lewis, Francis, Burton, Hogge, Howell, and Lackey all voted aye. (Motion carried 6-0)

#### **2.4 UVH021621: Consideration and action on a request for preliminary approval of Vista View Subdivision, consisting of four residential lots. Staff Presenter: Felix Lleverino; Applicant: Dean Jensen**

Planner Lleverino reported the applicant is requesting preliminary approval of a four-lot subdivision that fronts directly on 8600 East, and 500 South Streets, which are county public rights-of-way. This 21.01-acre lot is currently vacant farm ground. The north edge of the property falls at a mid-point of a 2,539' block and is an ideal location for an intersection from 8600 East Street. The Land-use Code of Weber County Section 106-2-3 (a) directs the creation of blocks.

"The maximum length of blocks generally shall be 1,300 feet and the minimum length of blocks shall be 500 feet."

Section 106-1-5 (a) (8) describes key elements of a subdivision design to begin the establishment of roads for future neighborhoods.

This property is not located within a geologic study area but as a precaution, the owner has obtained a Geotechnical Recommendation by CMT Engineering Laboratories that contains earthwork recommendations for the construction of four residential homes. The report includes recommendations for footings and foundations, seismic hazard mitigation, and foundation drainage.

As part of the approval process, the proposal has been reviewed against the current Weber County Land Use Code (LUC), and the standards of the AV-3 zone found in LUC §104-6. The following section is a brief analysis of this project against current land use regulations.

**General Plan:** This proposal conforms with the Ogden Valley General Plan (OVGP) by encouraging low-density development that preserves open space (see page 21 of the OVGP).

**Zoning:** The property is located in the AV-3 Zone. The purpose of this zone is stated in the LUC §104-6-1. "The purpose of the AV-3 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment."

**Flood Zone:** This parcel is within an area of minimal flood hazard and determined to be outside the 500-year flood level.

Roadway Dedication: The subdivision plat will convey the area to public streets (see exhibit A). The property description extends to the center of the 8600 East and 500 South. According to 106-2-2 (a) "Streets in year-round subdivisions shall be dedicated to the county".

Culinary Water: One well has been drilled which satisfies 106-4-2 (a)(3) the code requirements to have at least one well permit per development. The section of code also requires that the owner record a covenant that advises the new lot owner that well permits must be obtained, a well must be drilled, the water quality is satisfactory, and that water quantity is sufficient.

Secondary Water: The private well drilled will provide sufficient water for culinary and irrigation water needs.

Sanitary System: The Weber-Morgan Health Department has provided a feasibility letter stating that the site and soil evaluation is complete, and a wastewater disposal system is permissible. The feasibility indicates that lots 1, 3, and 4 qualify for an at-grade wastewater disposal system. Lot 2 qualifies to utilize a Wisconsin Mound or Packed Bed Media system.

Review Agencies: The Weber County Fire District has posted approval of the subdivision request with the caveat that further requirements are applicable at the time of home construction. Weber County Engineering states that all subdivision improvements planned in the public right-of-way shall be completed to a County standard. The Weber County Surveyors Office has posted reviews that will be addressed by a revised plat. The Planning Division is requesting road dedication for a full 66' or at least 33' for the creation of an intersection at approximately the mid-point of the block (see Exhibit A, dedication plat for Planning Staff's request).

Public Notice: All property owners of record within 500 feet of the subject property received notice by mail.

Staff recommends preliminary approval of Vista View Subdivision, consisting of four lots. The following conditions are included with the Planning Staff's recommendation:

1. The subdivision plan shall meet all Weber County reviewing agency requirements before recording the final Mylar.
2. The owner record a covenant to advise the new lot owner the well permits must be obtained.
3. The owner enters into a deferral agreement for curb, gutter, and sidewalk on 8600 East and 500 South, and a deferral agreement for curb, gutter, sidewalk, and asphalt for area dedicated on the north side of the development.

The following findings are the basis for the planning staff's recommendation:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision complies with the applicable County codes.

Chair Lewis invited input from the applicant.

Jeremy Draper, Reeve and Associates, addressed the information in the staff report regarding block lengths and the need for a future roadway on the north side of the property. As he looked at the feasibility of the roadway in the future, if the road were to continue eastward, there is an existing cul-de-sac that it will encounter within a few hundred feet. The feasibility of the road running further to the east is not high. As the road runs further to the west, there are issues with other property owners. The plot to the north is part of the subdivision already and getting an additional 33 feet for the roadway would be difficult. The applicant will sign deferral agreements for 8600 East for future roadway expansion, but for 500 South, the applicant would like the Commission to consider that they would only want to property to be accessed by 8600 East and they do not want to enter into a deferral agreement for 500 South at this time. The applicant is willing to work with staff to meet all other conditions recommended for the project.



Chair Lewis stated he feels the project is reasonable, but he does believe the County should require the deferral agreement on 500 South to facilitate the future development of a road in that area.

Commissioner Lackey asked if the project will connect to Huntsville City Water for residential water. Mr. Draper stated the plan is for each lot to have its own private well. Chair Lewis stated proof of water has been recorded for one of the lots, which indicates there should be water available for the rest of the project. Commissioner Lackey stated that the drilling report indicates that water is brown or gray from the top to 75 feet below the surface. He noted that Huntsville Water is very close to this project area and he wondered if it would not be better for the residents to connect to that system. Mr. Draper stated he will verify the location of Huntsville City Water infrastructure as he moves through the next steps in the County's approval process.

Commissioner Burton stated that the lots are very large and the frontage along 500 South is 659 feet; that is a lot of expense to put on this property when it is not using that street. He stated he feels that burden is onerous, and he is concerned about dramatically increasing the cost of development for the four homeowners in the project area. He added he feels Mr. Draper raises some good points about the viability of a street that runs east and west; it seems all traffic is running north and south in the area and he does not envision a road running further to the east or west. He asked what is to be gained by requiring the developer to dedicate land for that road. Mr. Lleverino stated that the requirements that staff has recommended are based upon standards in the County Code; the standards are based on good planning practices and intended to provide for the creation of blocks and roadways for future development. He stated the land is very wide open at this point and there is some likelihood that it will continue to develop in the future.

There was brief philosophical discussion and debate regarding the reasonability of requiring the developer to build 500 South; Commissioner Burton stated that a deferral agreement will apply to just four lots, when there are hundreds of other homes on the road and the residents of those homes use the roadway, is unfair.

Commissioner Lackey asked if both culinary and irrigation water will be supplied by wells. Mr. Draper answered yes; those plans will be verified as civil engineering for the project continues. Mr. Jensen added that he has 20 shares of irrigation water for the property; he intends to continue to grow hay on the property around the homes. His children will have the opportunity to build their homes on the property and they will be served by wells. He noted that the entire road improvement deferral cost will lie with him as he is simply subdividing his property for his family.

Chair Lewis invited public input.

Nicole Paulman stated she lives north of the subject property; she is unsure as to the purpose of the roadway that is included in the plan. It is designed to dead end into a field. She stated the area is very rural and there is very little traffic, and she is unsure the 'road to nowhere' is needed.

Chair Lewis stated the County is interested in requiring roads to provide for connectivity as the area develops in the future.

Commissioner Howell moved to approve **UVH021621: Consideration and action on a request for preliminary approval of Vista View Subdivision, consisting of four residential lots, based on the findings and subject to the conditions listed in the staff report.** Commissioner Lackey seconded the motion.

Chair Lewis clarified that the conditions listed in the staff report include a requirement for a deferral agreement for 500 South.

Commissioner Burton stated that he is still concerned with requiring the roadway; further to the west, there is a large amount of wet land area and other private property, the owners of which do not intend to allow the road to continue through. He stated the County will essentially be requiring the dedication of 33 feet, but the other 33 feet needed to accommodate the full right-of-way will not be available. This means that the County will need to maintain the 33 feet of dedicated space and it will not be used. He does not feel it is appropriate at this time. Chair Lewis asked if the area to the

north that is to be dedicated for a future roadway will be owned by the County. Mr. Lleverino stated it would be dedicated at the time of recording the final plat; it will be a dedicated easement for future right of way and the area would simply be preserved in the case the County deems a road in that area is appropriate at some point in the future. Chair Lewis stated that means the property owner would continue to maintain the property.

Legal Counsel Erickson stated that the motion stated is to leave the conditions as listed in the staff report, but it is necessary to correct the conditions to explicitly state that the owner is dedicating an easement rather than actually turning property over to the County.

Commissioner Howell amended his motion to clarify that an additional condition of approval is that the property owner shall dedicate an easement needed associated with the future development of a road to the north.

Vice Chair Francis asked how wide the easement will be, to which Mr. Lleverino answered 33 feet.

Commissioner Burton asked if the deferral agreement will be in effect in perpetuity. Mr. Lleverino answered yes. Commissioner Burton stated that means that if the road develops 50 years from now, the owner of the property at that time will need to pay for curb, gutter, sidewalk, and asphalt on 500 South and the street to the north. Mr. Lleverino stated that is correct.

Vice Chair Francis seconded the amended motion.

Chair Lewis called for a vote on the amended motion; Commissioner Lewis, Francis, Howell, Lackey, and Waldrip all voted aye. Commissioners Burton and Hogge voted nay. (Motion carried 5-2)

Commissioner Burton stated he feels the deferral agreement is onerous and improper.

### **3. Public Comment for Items not on the Agenda:**

There were no additional public comments.

### **4. Remarks from Planning Commissioners:**

Commissioner Howell commended Chair Lewis on the manner in which he conducts these meetings. Chair Lewis stated that some of these issues are very difficult and he thanked the Commission for their thoughtful consideration of each application and for the valuable input they provide.

### **5. Planning Director Report**

Mr. Grover stated that it is difficult to moderate public comments while meetings are being conducted in a virtual manner; he noted that there was an individual present in person for the meeting and he wanted to provide input regarding the last application item on the agenda. He indicated that he had some of the same concerns as the individual who spoke who lived north of the subject property. He stated he simply wanted to get these comments on the record.

### **6. Remarks from Legal Counsel**

There were no additional remarks from Legal Counsel.

## **WS1: Discussion regarding development proposal on the southwest corner of Old Snowbasin Road and Highway 39.**

Principal Planner Ewert presented the zoning map to identify the subject property; it is currently zoned Commercial Valley Recreation (CVR-1), which allows for commercial activities included in the resort zoning designations as well as up to 21 units per acre of residential development. The applicant is asking to amend the zoning map in a fashion that would reduce the number of units allowed in the project area; staff recommends adjusting the zoning to the FR-3 zone, which would allow residential lots (13). A previous plan approved for the project included several more residential lots as well as a hotel that would be governed by a development agreement.

The applicant, Jeff Allen with CW Group, used the aid of a PowerPoint presentation to provide information about projects completed in the past by his firm; he reiterated the request to rezone the property to reduce the density of the residential development. Lot sizes would be approximately 9,000 square feet and homes are intended to be vacation homes. He presented renderings of the project and elevations/floor plans that would be used in the project.

Mr. Ewert stated that staff has reviewed the application for compliance with the General Plan; they have also considered adjacent land uses and feel it would be appropriate to extend the zone change to other undeveloped properties in close proximity of the subject property. If there are no objections to the application at this time, staff will bring the application before the Commission at a future business meeting for action.

Planning Director Grover noted that staff has visited with representatives of Snow Basin Resort and they were not opposed to the zone change.

Chair Lewis asked if the residents living in the developments surrounding the subject property have been informed of the application. Mr. Ewert stated the applicant has spoken with some other residents as he has been performing his due diligence, but staff has not reached out to residents yet.

Vice Chair Francis stated she is aware of instances in the past where three large trucks have lost their brakes and have driven through the intersection without stopping. Chair Lewis stated that likely occurred at the end of Trappers Loop Road, but his project is on Old Snow Basin Road.

Chair Lewis suggested the applicant reach out to the president of the Homeowner's Association for existing projects in the area to discuss this proposal with them.

Commissioner Hogge referenced applications discussed earlier this evening and asked if this project will be similar to those with a private road and a desire for STRs. Mr. Allen stated that the project will be private and will be managed by a HOA; there will be two car garages and roadways with accommodations for off-street parking. Mr. Ewert stated that the County is working on an ordinance change that will govern private streets and he is hopeful that ordinance will be adopted before final development applications are submitted for this project.

Mr. Ewert stated that seeing no objections to the application, it will be included on a future business meeting for review and/or recommendation to the County Commission.

**Meeting Adjourned: The meeting adjourned at 7:48 p.m.**

**Respectfully Submitted,**

***Cassie Brown***



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Exhibit B – Staff Report to the Ogden Valley Planning Commission

#### Synopsis

##### Application Information

**Application Request:** Consideration and/or action on a conditional use permit for short term rental use at 3563 Creekside Way, Eden, UT, 84310  
**Agenda Date:** Tuesday, March 23, 2021  
**Applicant:** Christian Manion, Owner  
**File Number:** CUP2021-01

##### Property Information

**Approximate Address:** 3563 Creekside Way, Eden, UT, 84310  
**Project Area:** 0.05 acres  
**Zoning:** Forest Residential-3 Zone (FR-3)  
**Existing Land Use:** Residential  
**Proposed Land Use:** Short Term Rental  
**Parcel ID:** 22-370-0007  
**Township, Range, Section:** T7N, R1E, Section 22 SW

##### Adjacent Land Use

<b>North:</b>	Wolf Lodge Drive	<b>South:</b>	Residential
<b>East:</b>	Creekside Way	<b>West:</b>	Village Way

##### Staff Information

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

#### Applicable Ordinances

- Weber County Land Use Code Title 101 Chapter 1 General Provisions, Section 7 Definitions
- Weber County Land Use Code Title 104 Chapter 17 (FR-3 Zone)
- Weber County Land Use Code Title 108 Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Chapter 7, section 25 (Nightly Rentals)

#### Summary and Background

The applicant is requesting approval of a conditional use permit for short term use in a residential dwelling located in the FR-3 zone at 3563 Creekside Way, in Eden. The FR-3 Zone allows a “nightly rental” as a conditional use. The proposed use will occur within an existing dwelling. As such, there is no design review required. There is ample guest parking along Wolf Creek Drive.

The application is being processed for an administrative review due to the approval procedures in Uniform Land Use Code of Weber County, Utah (LUC) §108-1-2 which requires the planning commission to review and approve applications for conditional use permits.

#### Analysis

**General Plan:** As a conditional use, this use is allowed in the FR-3 Zone. With the establishment of appropriate conditions as determined by the Planning Commission, this operation will not negatively impact any of the goals and policies of the General Plan.

**Zoning:** The subject property is located within the Forest Valley (FR-3) Zone. The purpose of the FR-3 Zone can be further described in LUC §104-17-1 as follows:

*“The purpose in establishing the Forest Residential, FR-3 zone is to provide for medium density residential uses of apartment clusters or condo-tels adjacent to and in conjunction with major recreational resorts, recreation areas and facilities in the mountain areas of Weber County on the basis that such medium density multiple-family housing is an integral and*

*normal part of a recreational resort complex catering to the needs of both tourists and permanent home ownership. This zone is intended to be used in mountain locations in areas associated with major recreational resorts.”*

The FR-3 Zone has specific standards identified in the LUC §104-17-5, as well as additional standards that are outlined throughout the LUC that shall be met as part of the development process. The applicable standards, for single-family dwellings, are as follows:

Parking shall occur only in designated areas

The current property has two parking spaces (one car garage and driveway) that were approved as part of the Villages at Wolf Creek Development.

**Conditional Use Review:** A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. Prior to issuance of a conditional use permit, the applicant will need to apply for a business license, and approval from the applicable agencies for the proposal, will need to be obtained. A condition has been made part of the Planning Division’s recommendations to ensure that this standard is met.

Nightly Rental Ordinance: Under the current land use code, the section titled ‘Nightly Rentals’ states the following:

*The rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a nightly rental. Nightly rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD).*

## Staff Recommendation

Staff recommends approval of this conditional use application subject to the applicant meeting the conditions of approval in this staff report and any other conditions required by the Planning Commission. This recommendation is subject to all review agencies and is based on the following conditions:

- A business license shall be obtained prior to issuance of this conditional use permit.
- Parking shall occur only in designated areas within the development

This recommendation is based on the following findings:

- The proposed use is allowed in the FR-3 Zone and meets the appropriate site development standards.
- The criteria for issuance of a conditional use permit have been met because mitigation of reasonably anticipated detrimental effects can be accomplished.

## Exhibits

- D. Application & Narrative
- E. Site Plans



## Weber County Conditional Use Permit Application

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

Date Submitted / Completed 11/23/2020	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
<b>Property Owner Contact Information</b>			
Name of Property Owner(s) Christian Manion & Diem Chi Nguyen		Mailing Address of Property Owner(s) 481 North Beaumont Ct Salt Lake City, UT 84116	
Phone 661-600-7235	Fax		
Email Address (required) manionchristian@gmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Authorized Representative Contact Information</b>			
Name of Person Authorized to Represent the Property Owner(s) Christian Manion		Mailing Address of Authorized Person 481 North Beaumont Ct Salt Lake City, UT 84116	
Phone 661-600-7235	Fax		
Email Address manionchristian@gmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Property Information</b>			
Project Name The Villages at Wolf Creek		Total Acreage 0.05	Current Zoning FR-3
Approximate Address 3563 North Creekside Way Eden, UT 84310		Land Serial Number(s) 22-370-0007	
Proposed Use Nightly Rental			
Project Narrative Plan to use the townhome at the above address as a nightly vacation rental. The property owners will self manage the unit.			

### Basis for Issuance of Conditional Use Permit

Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor, vibration, light, dust, smoke, or noise.

Possible increased traffic to the residence, however complex was designed and allows for nightly rentals. Property will comply will all HOA rules and regulations.

That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

Property is zoned for nightly rentals with conditional use permit.

### Property Owner Affidavit

I (We), Christian Manion & Diem Chi Nguyen, 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.

Christian Manion  
(Property Owner)

Diem Chi Nguyen  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_,

\_\_\_\_\_  
(Notary)



Weber County Western Weber County Planning Commission

**NOTICE OF DECISION**

March 24, 2021

Christian Manion  
3563 North Creekside Way  
Eden, UT 84310

Case No.: Conditional Use Permit 2021-01

You are hereby notified that your CUP application for a short term rental was heard by the Ogden Valley Planning Commission in a public meeting held on March 23, 2021.

The Ogden Valley Planning Commission renders the following decision:

Denied

The reason for the decision:

1. The parking/safety impact of the short term rental cannot be adequately mitigated.

The decision of the Planning Commission may be appealed to the Board of Adjustment by filing such appeal within 15 days after the date of the notice of decision.



## 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 12-foot ~~20-foot~~ variance to the front yard setback to facilitate the construction of a single-family residence at 6706 E 6675 N, Eden.

**Agenda Date:** Thursday May 13, 2021 ~~Thursday, March 18, 2021~~

**Applicant:** James DePiano, Owner

**File Number:** BOA2021-02

#### Property Information

**Approximate Address:** 6706 E 6675 N, Eden (Powder Mountain West)

**Project Area:** .22 acres

**Zoning:** Forest Residential (FR-3)

**Existing Land Use:** Vacant

**Proposed Land Use:** Residential

**Parcel ID:** 22-110-0011

**Township, Range, Section:** T8N, R1E, Section 36, SE 1/4

#### Adjacent Land Use

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Residential	<b>West:</b>	Forest

#### Staff Information

**Report Presenter:** Scott Perkes  
sperkes@co.weber.ut.us  
801-399-8772

**Report Reviewer:** SB

### Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-3)

### Background

The applicant is requesting a 12-foot ~~20-foot~~ variance to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 13-foot ~~5-foot~~ setback from the front lot line. The applicant feels that a variance is necessary to build their desired home. The applicant cites peculiar circumstances that constrain the lot's buildable area and reduces their ability to build a reasonable home that would match development within the neighborhood (see **Exhibit A**).

The applicant initially submitted a variance request for a 20-foot setback. This request was reviewed by the BOA during their March 18<sup>th</sup>, 2021 meeting. However the Board did not believe a variance of this size allowed for adequate separation of the home and potential improvements within the adjacent right-of-way. As such, the Board voted to table the item to allow the applicant to explore options for repositioning or redesign of the proposed home that could allow for additional separation and a larger setback. The applicant revised their plans and have resubmitted for an increased setback (12-foot variance equating to a 13-foot setback) as compared to the original request (20-foot variance equating to a 5-foot setback) (see **Exhibit G**).

Planning staff has provided three site plan exhibits to help visualize applicable setbacks and peculiar encumbrances to the property. **Exhibit C** depicts the minimum zoning setbacks along with the applicable encumbrances. **Exhibit D** depicts the site should a 12-foot ~~20-foot~~ variance be granted in relation to the proposed single-family residence footprint.

### Summary of Board of Adjustment Considerations

LUC §102-3 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. 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 relating 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 is done.*

## Staff Analysis

The list below are points taken from the applicant's [resubmitted](#) narrative as compared to the above listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative states that literal enforcement of the setbacks substantially reduces the buildable area and makes it unreasonable to build a home similar to other homes in the Powder Mountain/Summit area.
- b. The applicant states that the special circumstances that exist are the size of the lot, slope of the lot (see **Exhibit B**), and the encroachment of Slow Poke Trail along the rear third of the property. All of which restricts the buildable footprint.
- c. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that is possessed by other properties in the area.
- d. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will not adversely affect the neighbors and will not crowd the existing Aspen Road.
- e. The applicant has taken the appropriate measures to submit for a variance request and is looking to preserve the existing ski easement along the rear of their property while still requesting that substantial justice be considered by allowing their home to be built closer to the front property line.

As depicted in **Exhibit C**, the existing zoning setbacks coupled with the site's unique encumbrance (Slow Poke trail and steep slope), have created a reduced buildable area for this parcel of approximately 2,880 square feet. The footprint of the applicant's proposed dwelling is approximately 1,900 square feet.

## Conformance to the General Plan

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

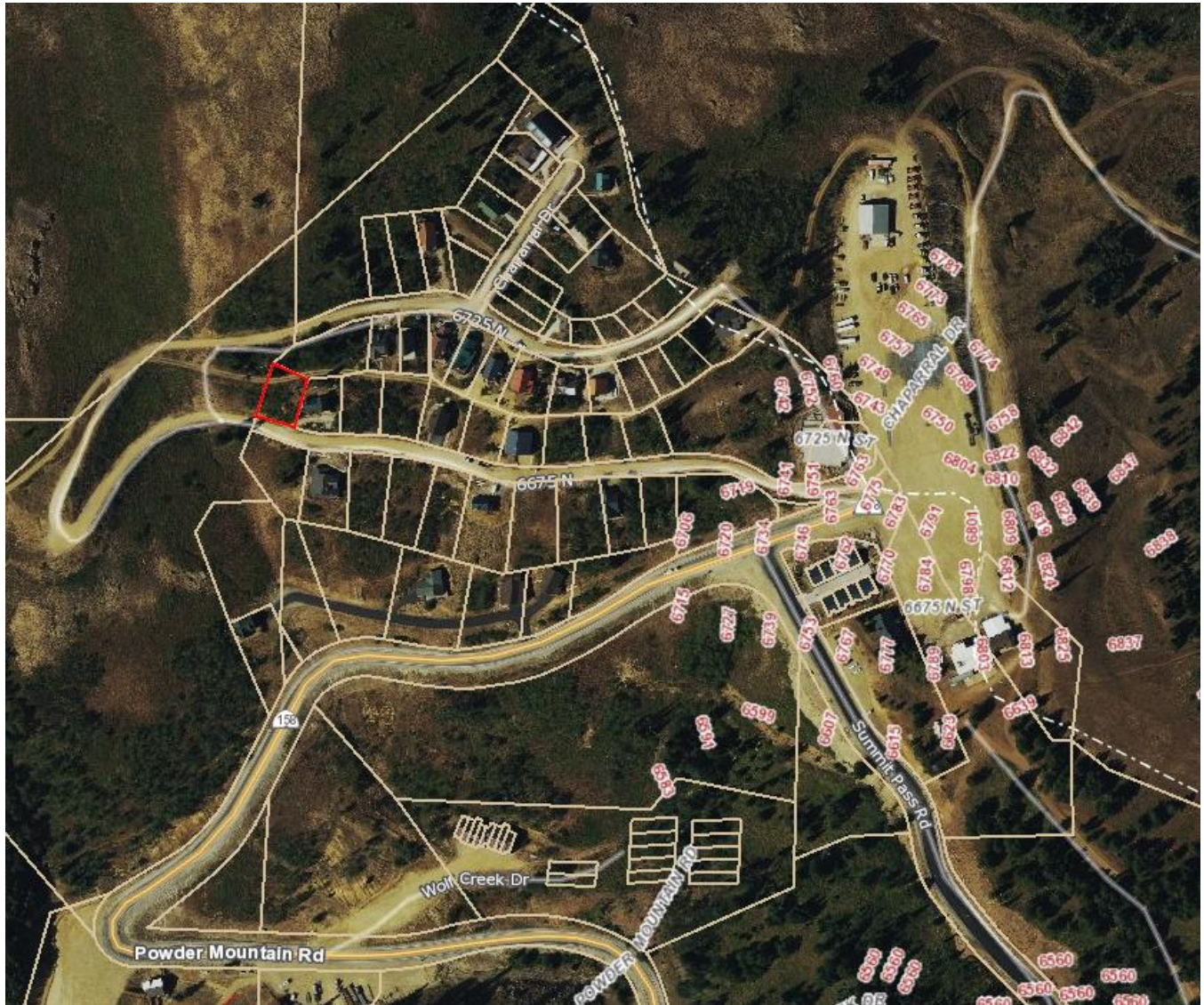
## Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis and compare the applicant's request against the five points of consideration listed in LUC §102-3-4(b)(2) (presented above). If the Board finds that the applicant's request meets the criteria, a [12-foot](#) ~~20-foot~~ variance to the front yard setback could be granted.

## Exhibits

- A. [Applicant-written variance request \(Newly Submitted\)](#)
- B. [Lot Topography Map](#)
- C. [Site plan showing FR-3 zone setbacks \(Updated Building Footprint\)](#)
- D. [Site plans showing a 12-Foot Vs 20-Foot variance to the front-yard setback](#)
- E. [2021 Recorder's plat](#)
- F. [Property Photos \(Newly Submitted\)](#)
- G. [Proposed Building Plans \(Newly Submitted\)](#)

## Area Map





**DePiano Variance Request  
Lot 42 Aspen Drive**

**A.**

We want to build a single family home on our lot at Powder Mountain. However, there are hardships making this difficult to do without a variance from the county. In particular, the steepness of the lot, the ski trail easement that goes through our buildable area and that the actual ski trail itself encroaches over the easement, reducing the buildable area even further.. We have revised our original request for a 5' set back and are requesting a 13' front setback from the property. Please note, we were approved for a 12' set back in 2016.

**B.**

With the minimum 25' setback requirement from the front property line plus the additional 20' from the actual road, the house would be 45' from the road. With the distance from the property line and the rise that occurs in the grade, we could not put in a safe, functional driveway. If we can bring the house down and sink the home, the driveway grade will be 12% grade. While this is steep, it is manageable.

In this particular area of the association the distance from the property line to the actual edge of the road is further than the typical average distance for other lots. The distance is almost 20'. Weber County Planning has mentioned that the front setback is to assist and allow for off street parking besides those areas enclosed. With 20' in front of the lot and another 13' front setback, there will be 33' of off street parking.

Powder Mountain Ski Resort has an easement through our property for a ski trail (Slow Poke). This reduces the depth of the allowable buildable area by about 1/3. Strict adherence to the 25' front setback in this area with the ski run in the rear would limit the depth of the house, preventing a decent home depth.

The grading, as the ski run has been built up causes additional drainage and retention issues for the home. The smaller setback allows the home space for drainage and retention to occur away from the home.

The ski run is not self imposed. Slow Poke encroaches beyond the easement, encroaching on the south side of our lot. Consequently our buildable area is reduced even further. We are the only lot in the association who has the ski run cutting through the buildable area. Were the ski run similar in its position to the other lots being within their rear setbacks we could comply with the current front setback and have enough depth for the home in the standard buildable area.

**C.**

The lot itself is very steep and very small; measuring only .21 acres / 9505 sq. ft. Most important though, no other lots have the ski run cutting right through their buildable area. All other properties containing the easement for the ski run contain the run inside of the rear setback, not affecting their buildable area.

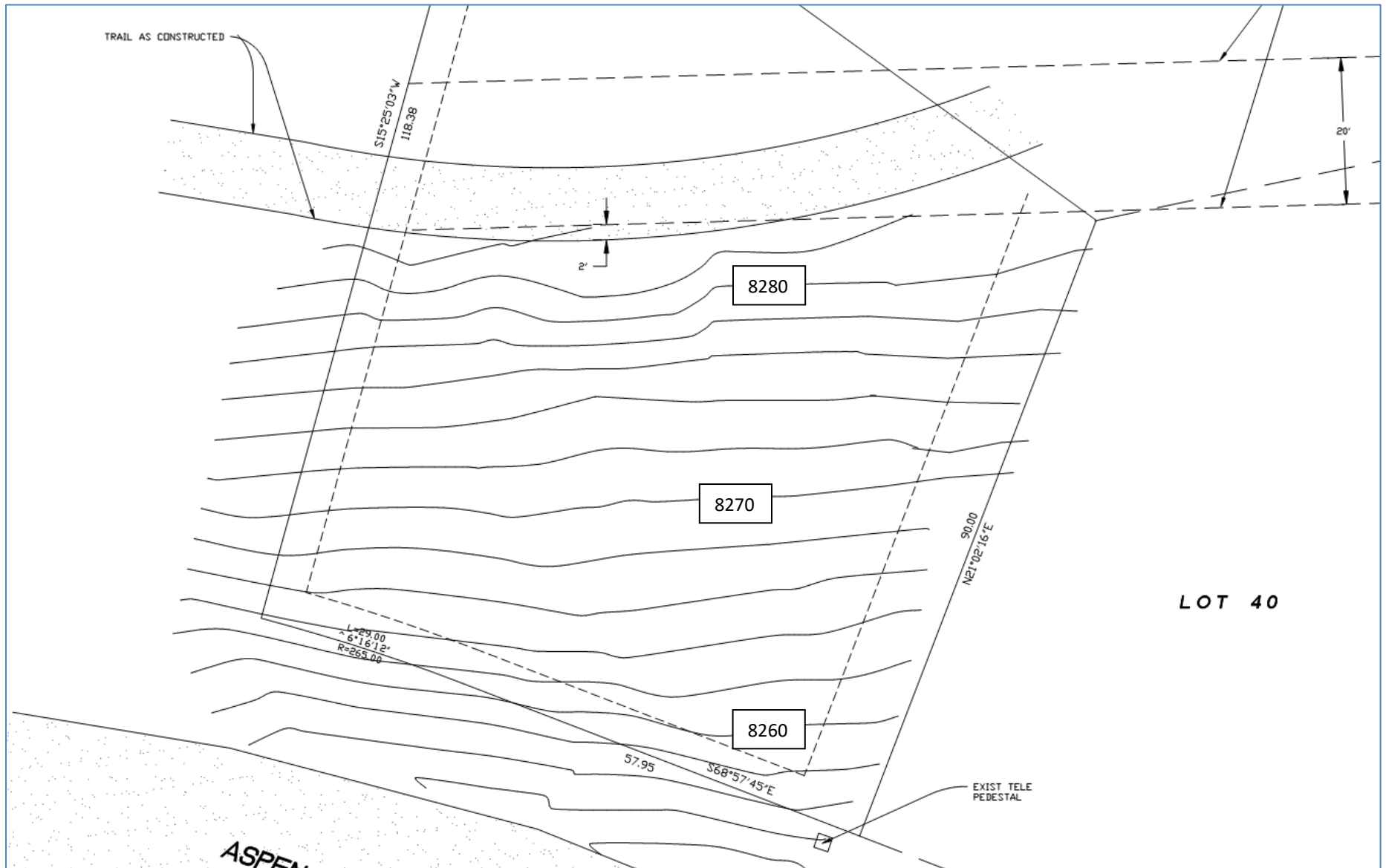
**D.**

With the 20' of land between the road and the front property line, plus the 13' setback, there will be 33' between the front of the house and the road. The house will be further from the road than the majority, if not all, other houses in the area.

**E.**

We are applying for a variance. We are looking to preserve the existing ski trail that is to the rear of our property while still requesting that substantial justice be considered by allowing our home to be built closer to the front property line.

## Exhibit B: Site Topography Map



FINISHED FLOOR ELEVATIONS:  
 GARAGE FLOOR: 8316.50'  
 LOWER FLOOR: 8330.00'  
 MAIN FLOOR: 8338.75'  
 UPPER FLOOR: 8349.00'

ROOF ELEVATIONS:  
 MAIN ROOF ELEVATION: 8354.75'  
 HIGHEST ROOF ELEVATION: 8359.00'

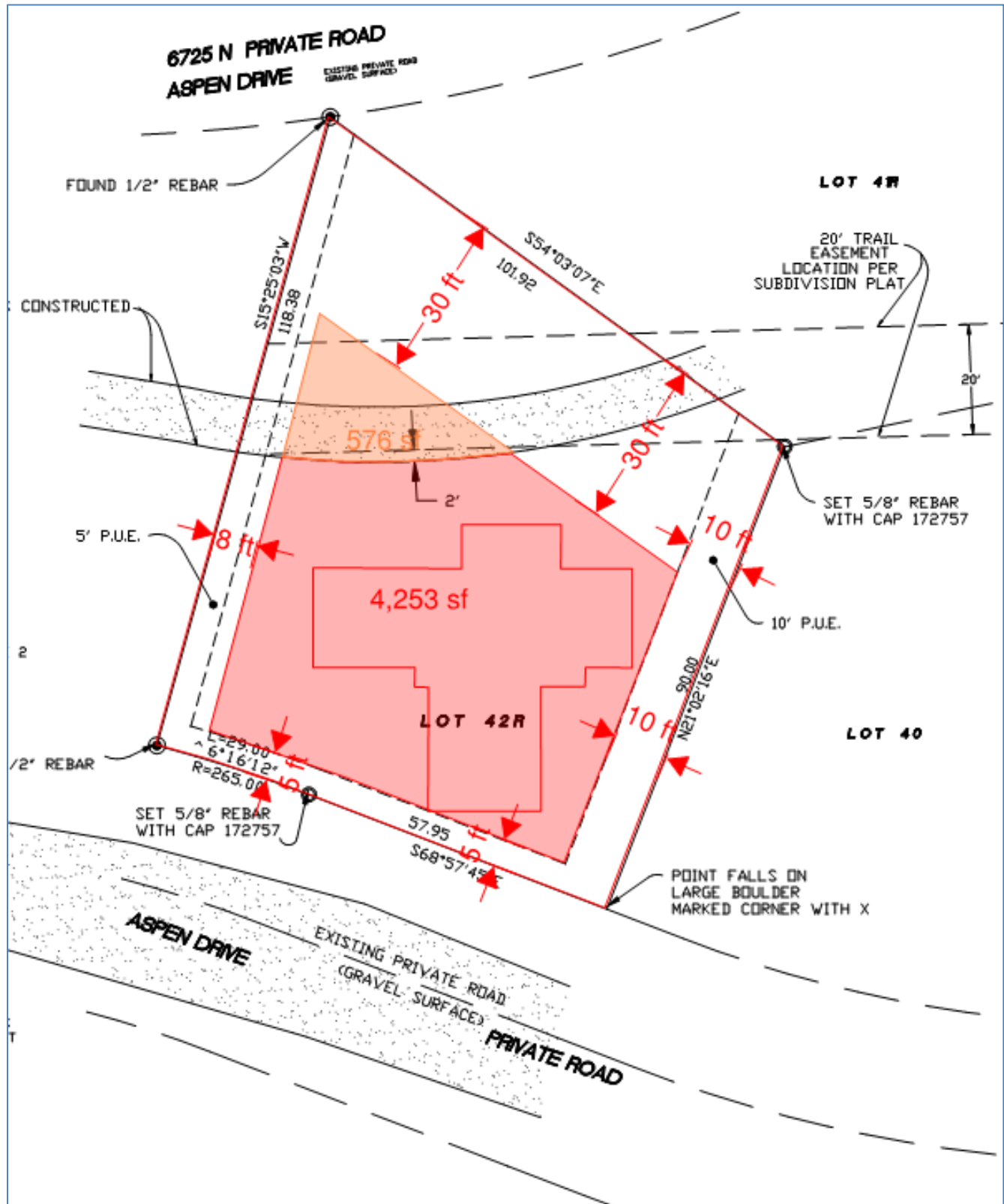
576 Sq. Ft. SLOW POKE TRAIL

2,880 Sq. Ft.

Length of driveway: 36'  
 Rise of driveway from road to garage floor: 4.5'  
 Driveway slope: 12%  
 Driveway must work around existing utility boxes.



Exhibit D: 20-Foot Variance to Front Yard Setback (ORIGINAL REQUEST)



FINISHED FLOOR ELEVATIONS:  
 GARAGE FLOOR: 8316.50'  
 LOWER FLOOR: 8330.00'  
 MAIN FLOOR: 8338.75'  
 UPPER FLOOR: 8349.00'

ROOF ELEVATIONS:  
 MAIN ROOF ELEVATION: 8354.75'  
 HIGHEST ROOF ELEVATION: 8359.00'

576 Sq. Ft. SLOW POKE TRAIL

~ 3,960 Sq. Ft.

Length of driveway: 36'  
 Rise of driveway from road to garage floor: 4.5'  
 Driveway slope: 12%  
 Driveway must work around existing utility boxes.

Exhibit E: 2021 Recordors Plat

PART OF SEC. 1, T.7N., R.1E., & SEC. 36, T.8N., R.1E., S.L.B. & M.  
POWDER MOUNTAIN WEST SUBDIVISION – PHASE 2

IN WEBER COUNTY

TAXING UNIT: 90

SCALE 1" = 60'

SEE BOOK 23  
PAGE 85

SEE PAGE 1

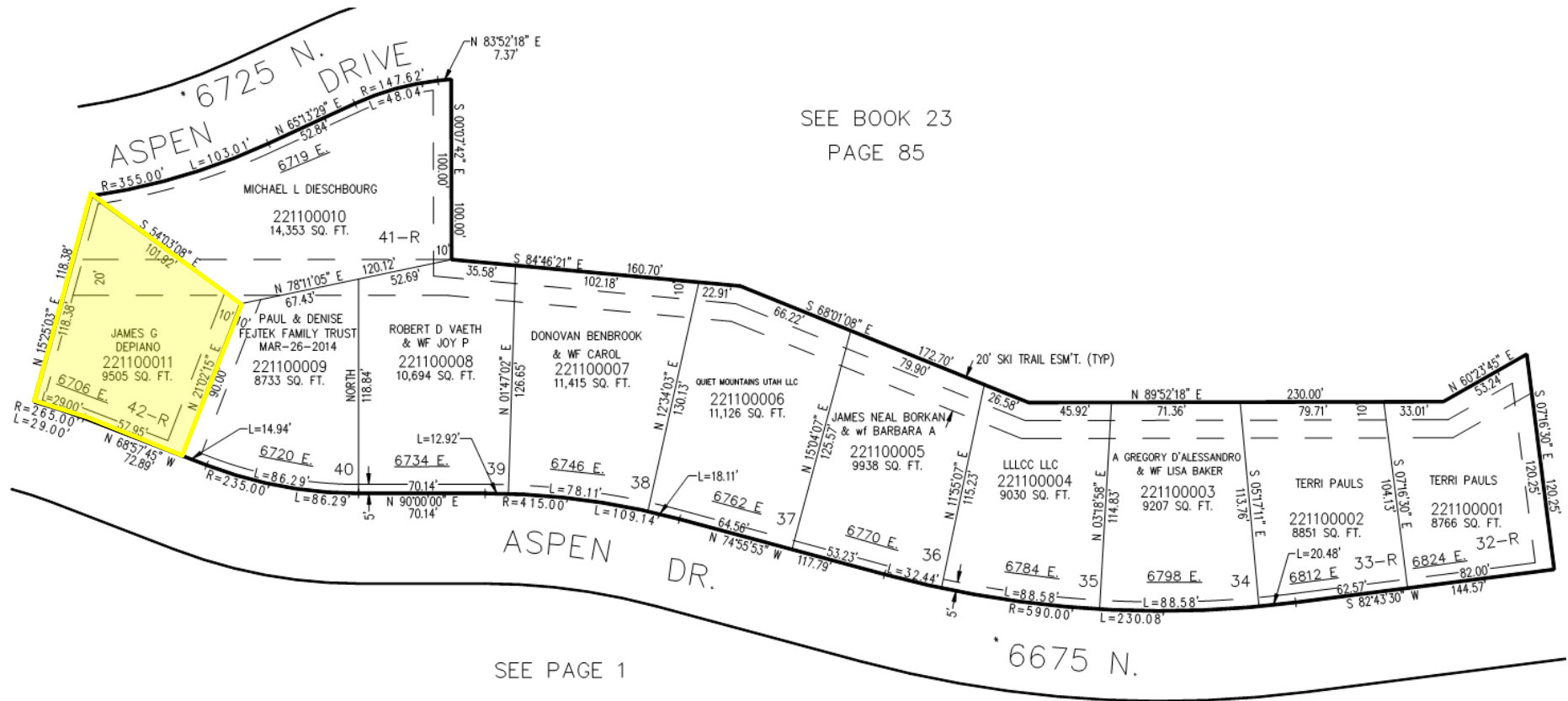
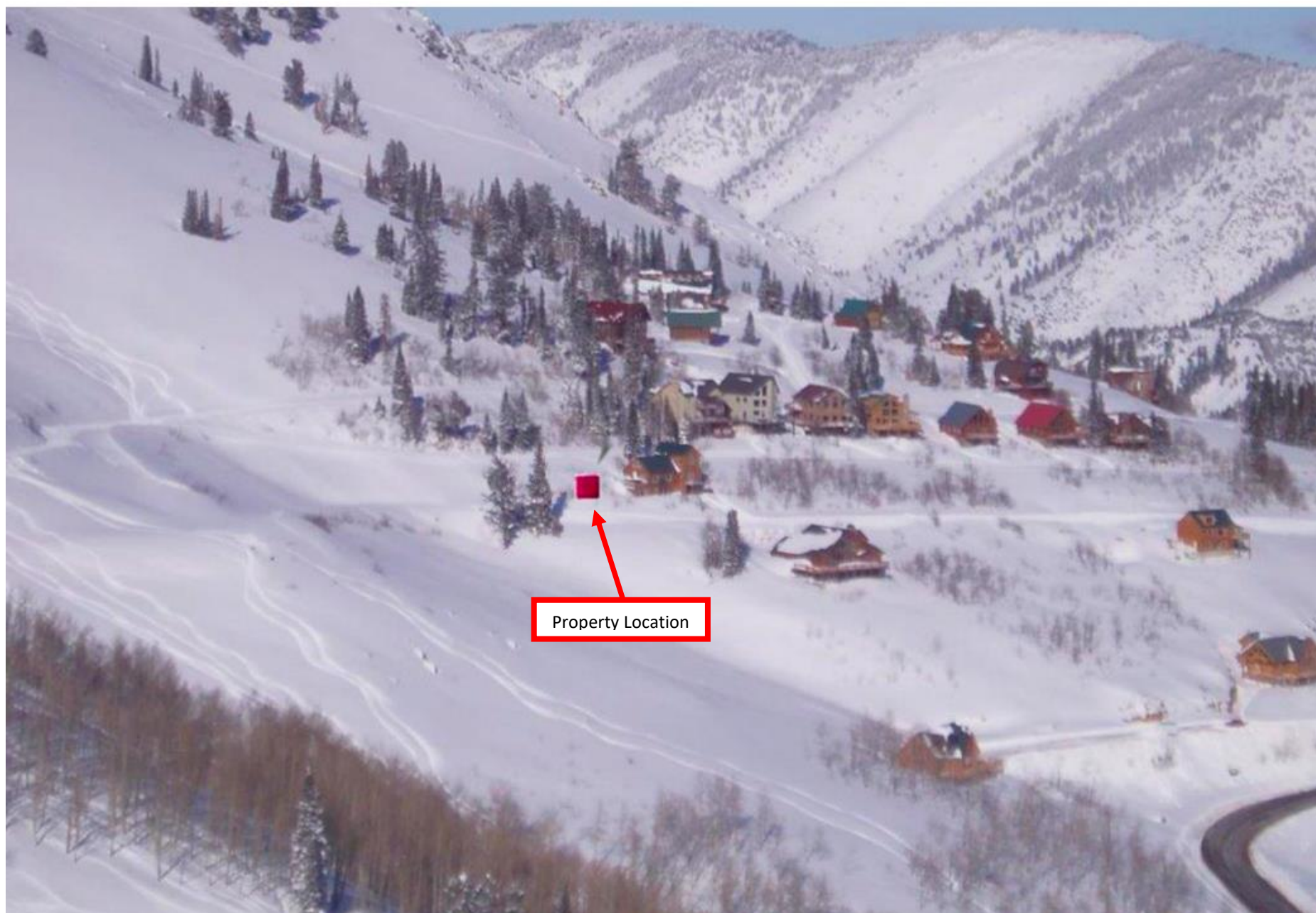


Exhibit F: Property Location Aerial Photo



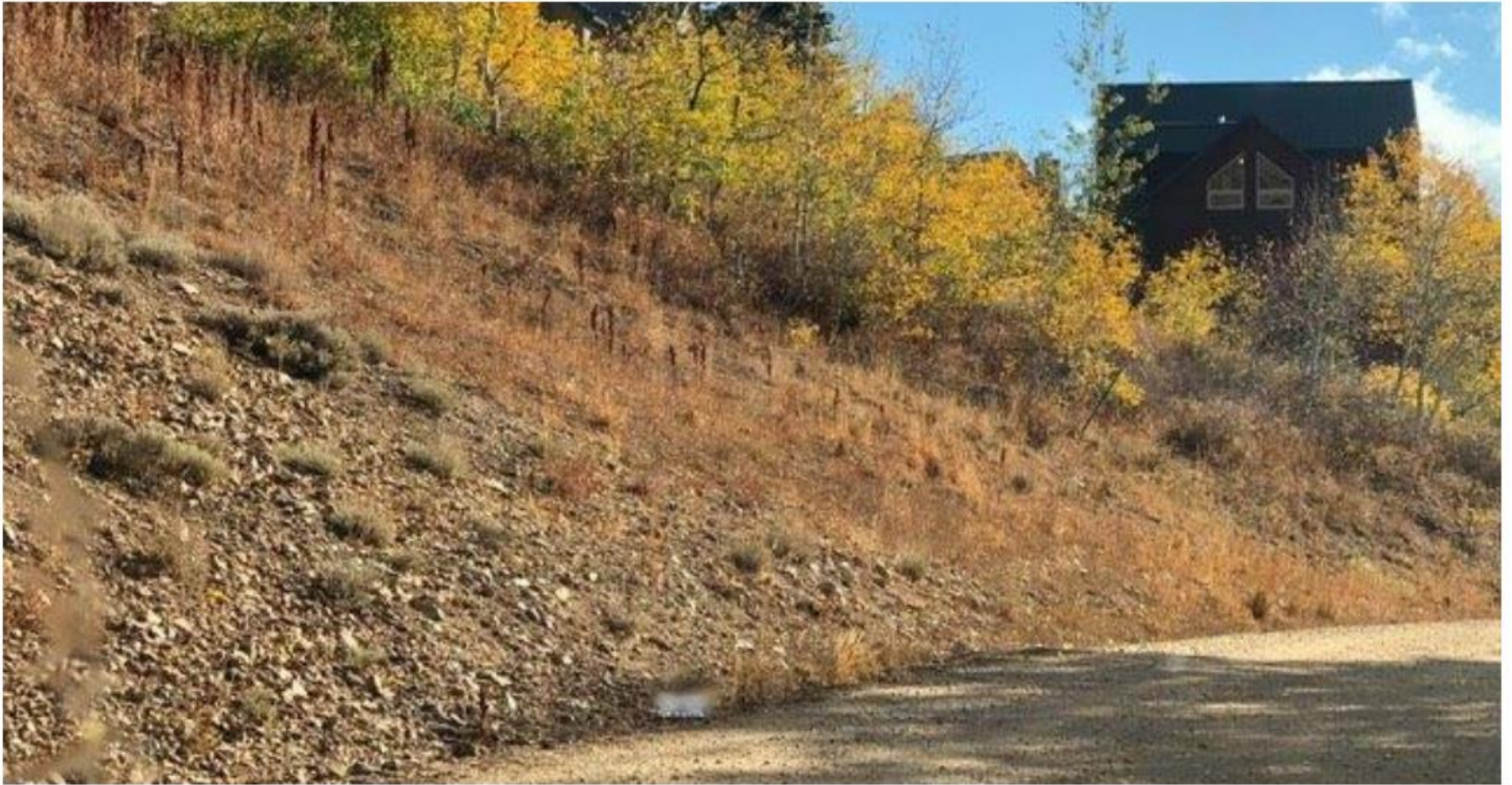




Slow poke (ski trail only, not a road)

Aspen Drive





Lot 42 looking East from Aspen Drive





Slope and electric meter on easter corner of lot





Lot 42 looking East

Slow Poke

Aspen Drive





House directly to the east of lot 42. Example of snow load on north side during heavy snow year.

Deplano Residence  
Parcel #22100011  
Lot #42-R Powder Mountain West  
6706 East 6675 North  
Eden, Utah

Area: 9,505 Sq. Ft.  
.21 Acres  
Scale: 1" = 8'

Property Line  
Building Setbacks

Zone FR-3

Main Building  
Front Setback: 25'  
Side Setback: 8' min 10' total  
Rear Setback: 30'  
Max Height: 35'

Accessory Building  
Side Setback: 8' (or 1' if 6' behind main building)  
Rear Setback: 1'  
Max Height: 25'

Note: All storm water and dirt will be kept on site during construction until final landscaping is done.

Note: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as to not create a hazard. Lot shall be graded so as to drain surface water away from foundation walls. The grade away from the foundation walls shall fall a minimum of 6 inches within the first 10 feet (min. 5% slope.)

Note: The grade adjacent to all foundation walls shall fall a minimum of 6 inches within the first 10 feet (5% slope). R4013 Landings, ramps, patios, porches or decks, which are required to be level or can have a maximum slope of 1/4" per foot. All other impervious surfaces within 10 feet of the foundation walls must slope a minimum of 1/4" per foot away from walls.

Note: Street, curb, and gutter will be inspected and cleaned of all mud and dirt at the end of every day.

Note: Gravel bags (or equivalent BMP) to be placed and maintained around any storm drain inlet adjacent to or immediately downstream from site during construction.

Note: Berms or swales may be required along property lines to prevent storm water flow onto adjacent lots. Final grading shall blend with adjacent lots.

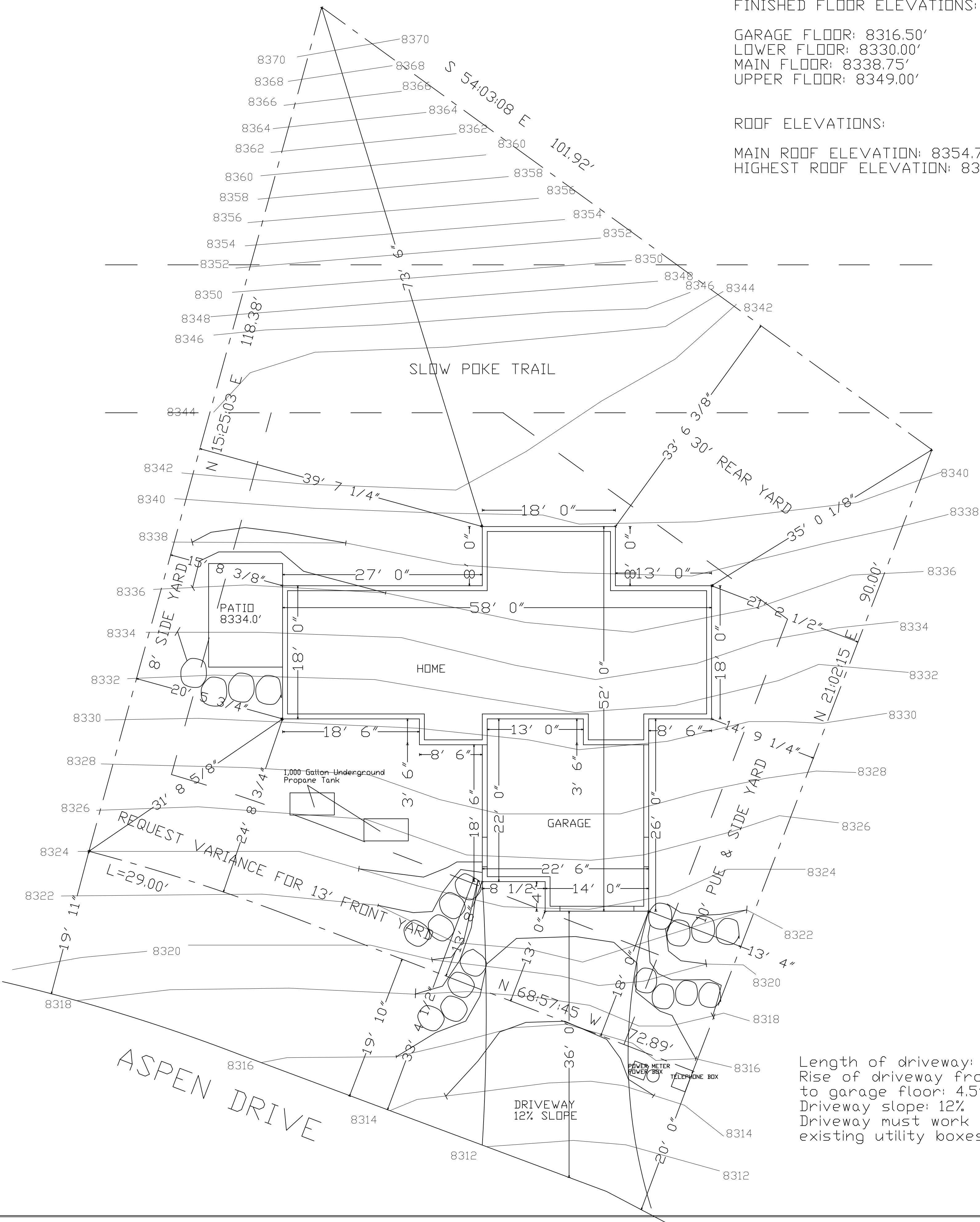
Note: A lined concrete washout area must be provided at the site for all concrete, paint, stucco, or masonry work. Washout on the ground is prohibited.

FINISHED FLOOR ELEVATIONS:

GARAGE FLOOR: 8316.50'  
LOWER FLOOR: 8330.00'  
MAIN FLOOR: 8338.75'  
UPPER FLOOR: 8349.00'

ROOF ELEVATIONS:

MAIN ROOF ELEVATION: 8354.75'  
HIGHEST ROOF ELEVATION: 8359.00'



Homeowner:  
Jimmy & Ally DePlano

General Contractor:

DePlano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
S101

DESCRIPTION:  
SITE PLAN

Scale: 1/8" = 1 Foot

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L.L.C.  
Custom Home  
Solutions  
CreativeLinePlans.com  
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801 628-7041



Deplano Residence  
Parcel #22100011  
Lot #42-R Powder Mountain West  
6706 East 6675 North  
Eden, Utah

Area: 9,505 Sq. Ft.  
.21 Acres  
Scale: 1" = 8'

Property Line  
Building Setbacks

Zone FR-3

Main Building  
Front Setback: 25'  
Side Setback: 8' min 10' total  
Rear Setback: 30'  
Max Height: 35'

Accessory Building  
Side Setback: 8' (or 1' if 6' behind main building)  
Rear Setback: 1'  
Max Height: 25'

Note: All storm water and dirt will be kept on site during construction until final landscaping is done.

Note: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as to not create a hazard. Lot shall be graded so as to drain surface water away from foundation walls. The grade away from the foundation walls shall fall a minimum of 6 inches within the first 10 feet (min. 5% slope).

Note: The grade adjacent to all foundation walls shall fall a minimum of 6 inches within the first 10 feet (5% slope). R4013 Landings, ramps, patios, porches or decks, which are required to be level or can have a maximum slope of 1/4" per foot. All other impervious surfaces within 10 feet of the foundation walls must slope a minimum of 1/4" per foot away from walls.

Note: Street, curb, and gutter will be inspected and cleaned of all mud and dirt at the end of every day.

Note: Gravel bags (or equivalent BMP) to be placed and maintained around any storm drain inlet adjacent to or immediately downstream from site during construction.

Note: Berms or swales may be required along property lines to prevent storm water flow onto adjacent lots. Final grading shall blend with adjacent lots.

Note: A lined concrete washout area must be provided at the site for all concrete, paint, stucco, or masonry work. Washout on the ground is prohibited.

FINISHED FLOOR ELEVATIONS:

GARAGE FLOOR: 8316.50'  
LOWER FLOOR: 8330.00'  
MAIN FLOOR: 8338.75'  
UPPER FLOOR: 8349.00'

ROOF ELEVATIONS:

MAIN ROOF ELEVATION: 8354.75'  
HIGHEST ROOF ELEVATION: 8359.00'

Homeowner:  
Jimmy & Ally DePlano

General Contractor:

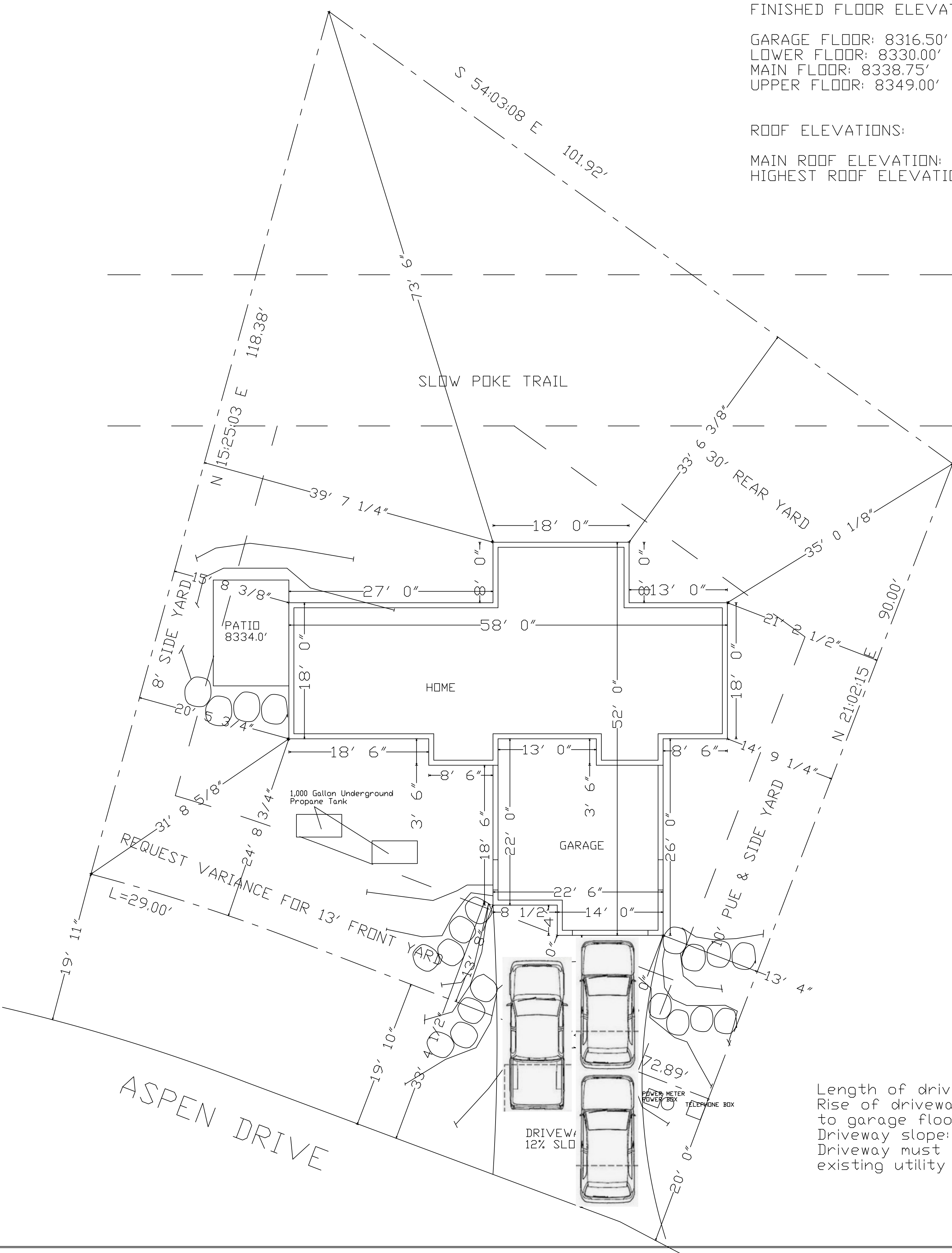
DePlano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

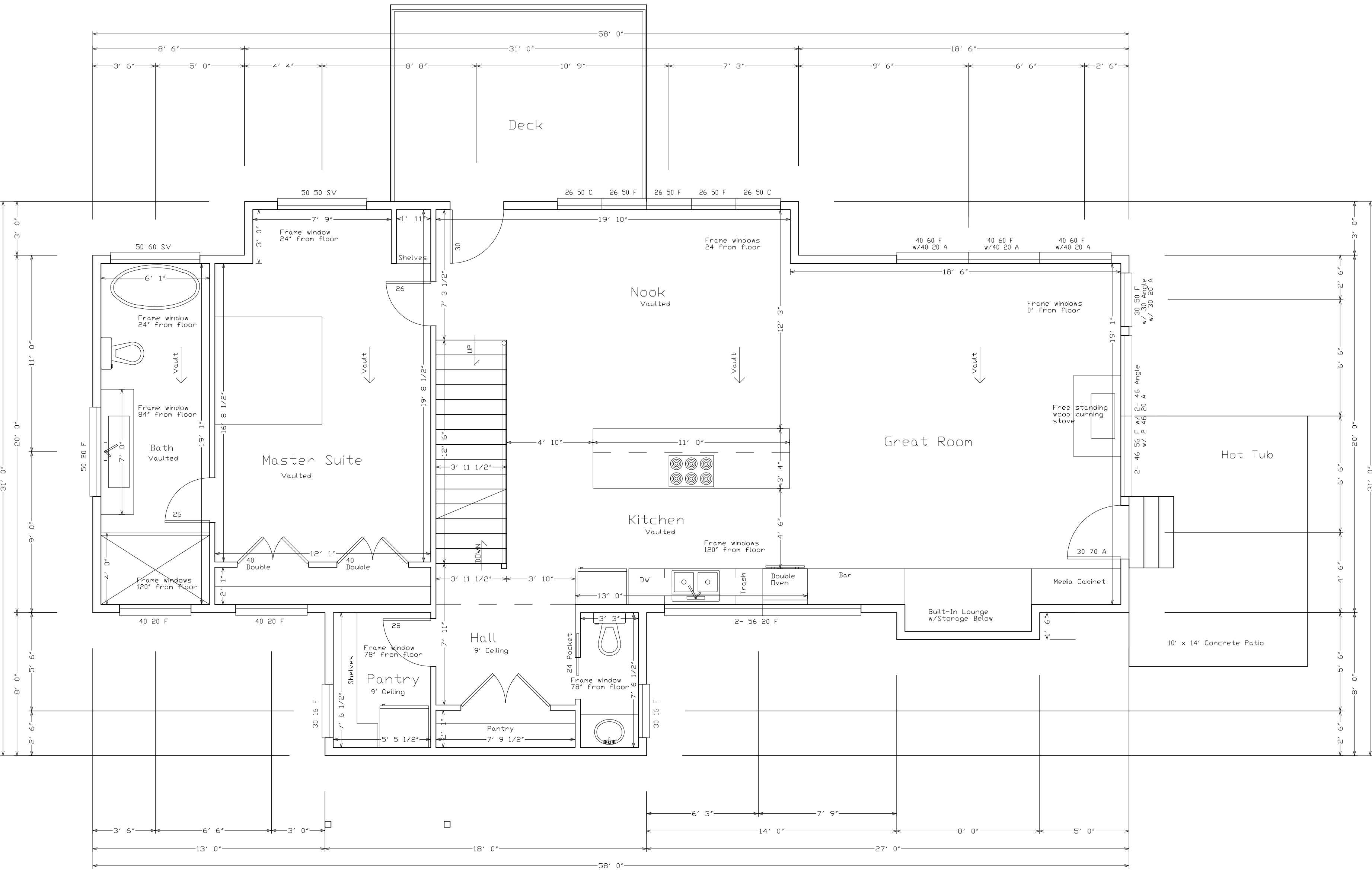
SHEET NO:  
S101

DESCRIPTION:  
SITE PLAN

Scale: 1/8" = 1 Foot

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L.L.C.  
Custom Home  
Solutions  
CreativeLinePlans.com  
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801 628-7041





Main Floor Plan

Main Floor: 1408 Sq. Ft.

Homeowner:  
Jimmy & Ally DePiano

General Contractor:  
Peterson Builders  
Tyson DeMeyer

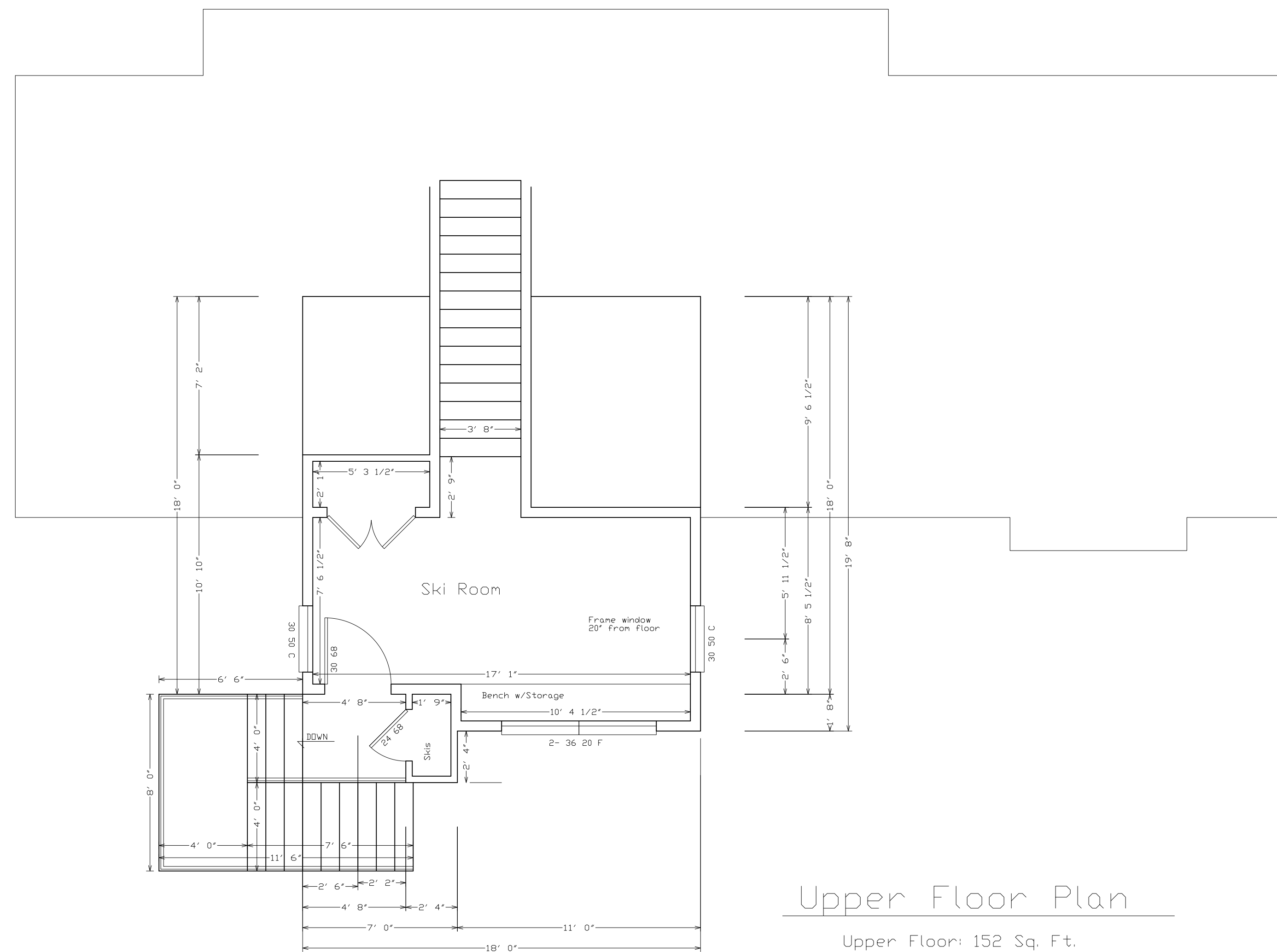
DePiano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
A101

DESCRIPTION:  
MAIN FLOOR PLAN

Scale: 1/4" = 1 Foot

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Custom Home  
Solutions  
CreativeLinePlans.com  
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801 628-7041



Homeowner:  
Jimmy & Ally DePiano

General Contractor:  
Peterson Builders  
Tyson DeMeyer

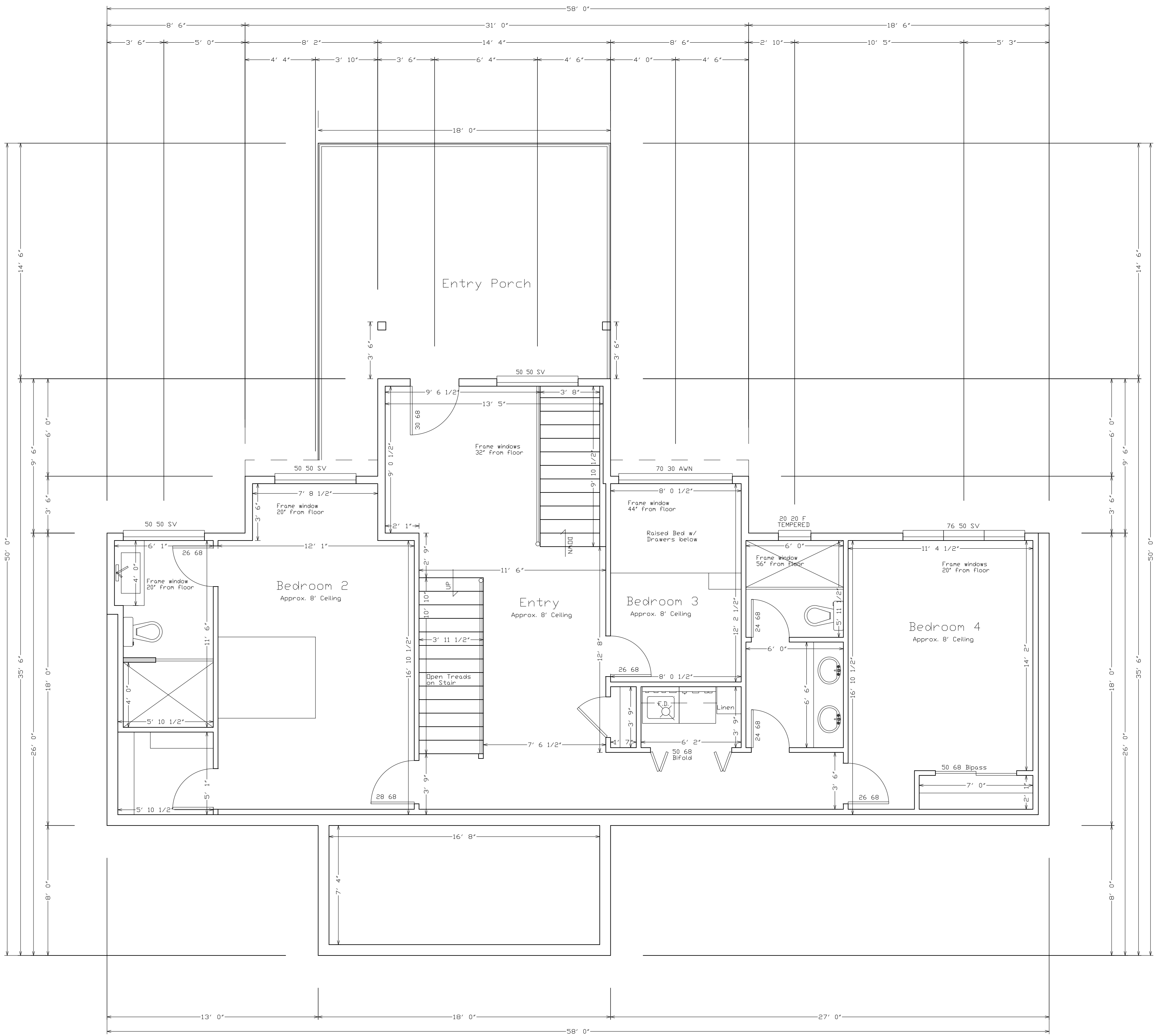
DePiano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
A102

DESCRIPTION:  
UPPER FLOOR PLAN

Scale:  $1/4" = 1 \text{ Foot}$

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L.L.C.  
Custom Home  
Solutions  
CreativeLinePlans.com  
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801 628-7041



Lower Floor Plan

Lower Floor: 1168 Sq. Ft.

Homeowner:  
Jimmy & Ally DePiano

General Contractor:  
Peterson Builders  
Tyson DeMeyer

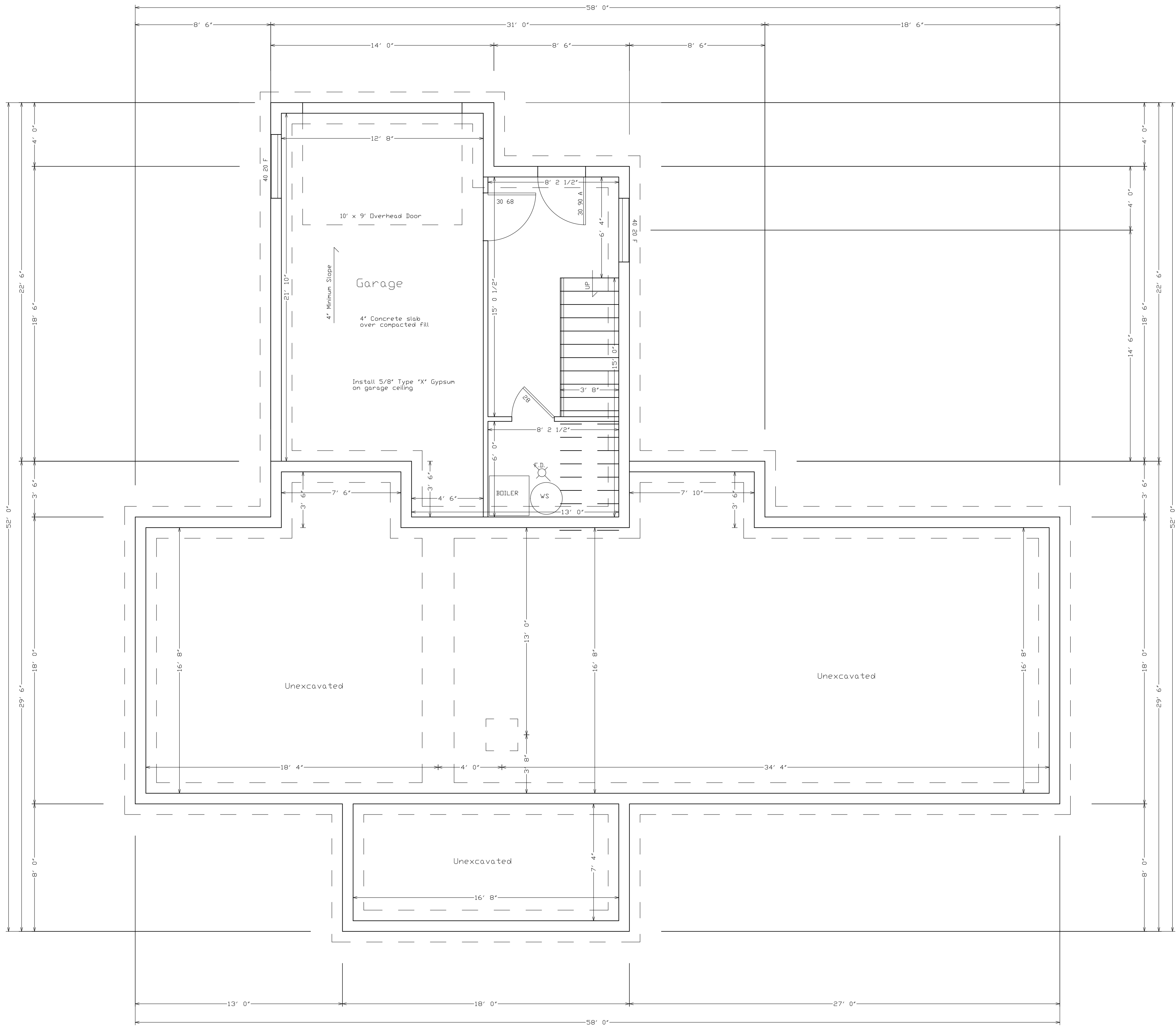
DePiano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
A102

DESCRIPTION:  
MAIN FLOOR PLAN

Scale: 1/4" = 1 Foot

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L.L.C.  
Custom Home  
Solutions  
CreativeLinePlans.com  
©Ashlie Hull  
801 628-7041



Garage Floor Plan

Garage: 474 Sq. Ft.

Homeowner:  
Jimmy & Ally DePiano

General Contractor:  
Peterson Builders  
Tyson DeMeyer

DePiano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
A104

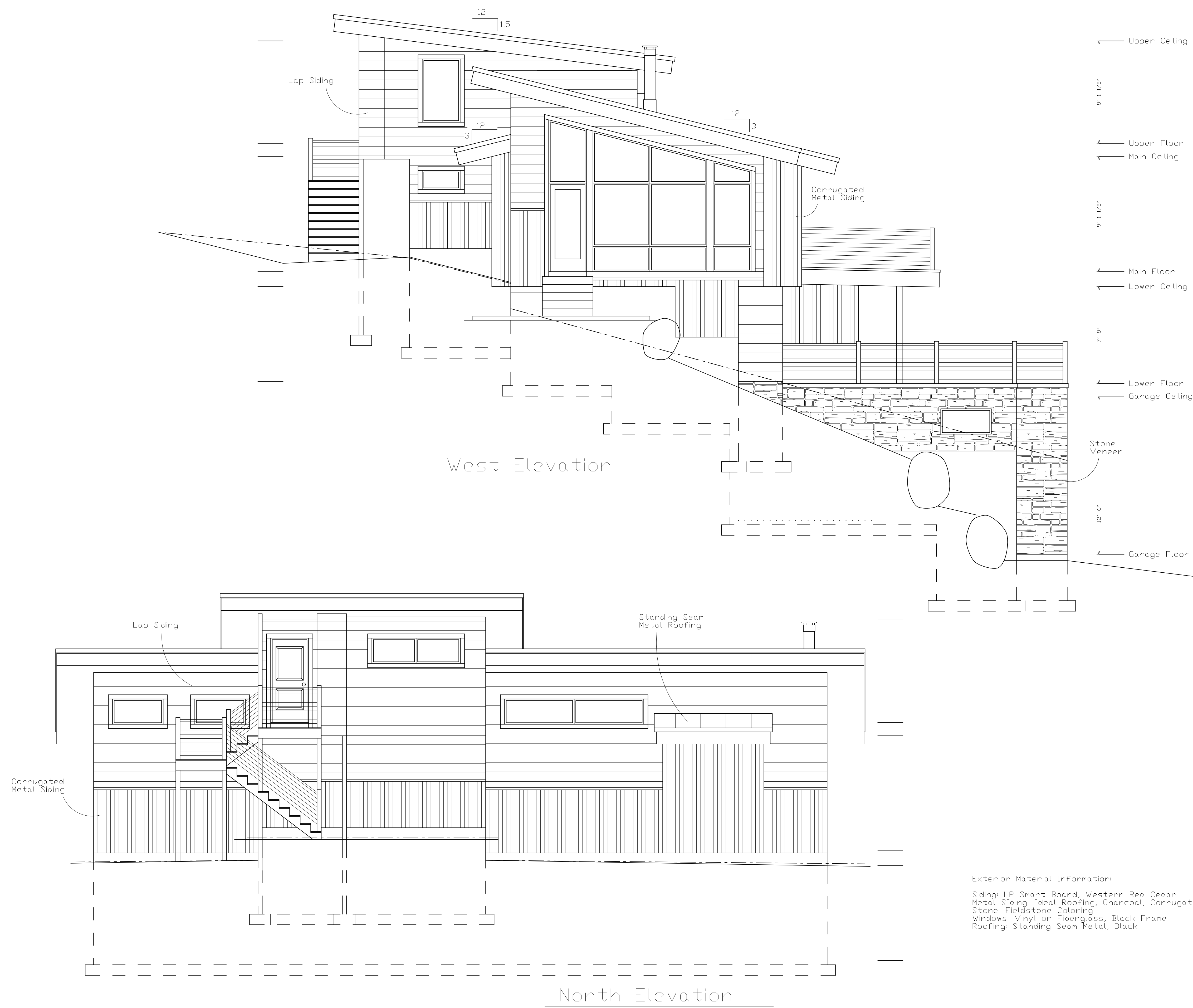
DESCRIPTION:  
GARAGE FLOOR PLAN

Scale: 1/4" = 1 Foot

Creative  
Line  
L.L.C.  
Custom Home  
Solutions  
CreativeLinePlans.com  
©Ashlie Hull  
801 628-7041







Homeowner:  
Jimmy & Ally DePiano

General Contractor:  
Peterson Builders  
Tyson DeMeyer

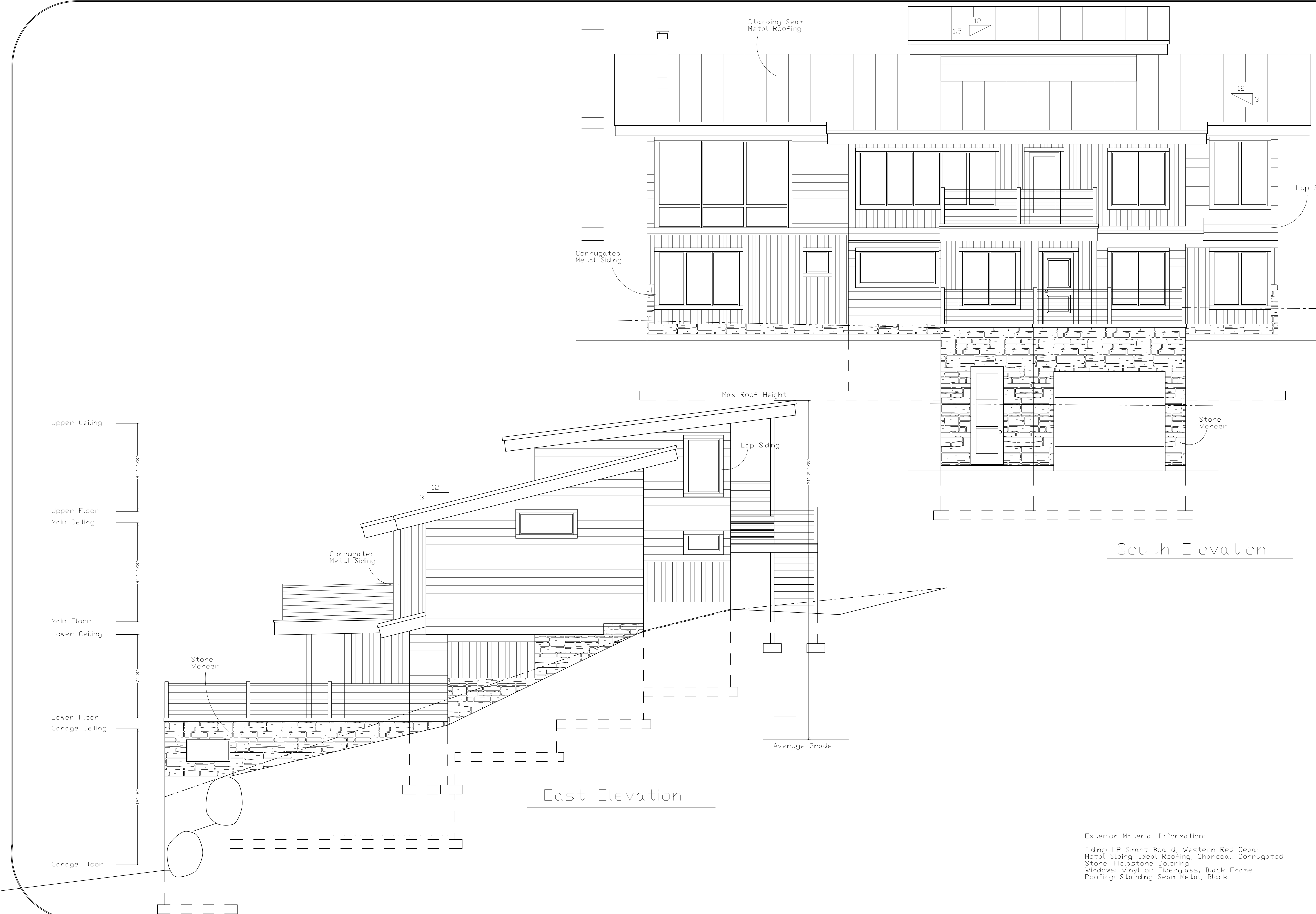
DePiano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
A201  
DESCRIPTION:  
EXTERIOR ELEVATIONS

Scale: 1/4" = 1 Foot

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Custom Home  
Solutions  
CreativeLinePlans.com  
©Ashlie Hull  
801 628-7041





Homeowner:  
Jimmy & Ally DePiano

General Contractor:  
Peterson Builders  
Tyson DeMeyer

DePiano Residence  
Lot #42 Powder Mountain West  
6706 East 6675 North  
Eden, Utah

SHEET NO:  
A202

DESCRIPTION:  
EXTERIOR ELEVATIONS

Scale: 1/4" = 1 Foot

Exterior Material Information:  
Siding: LP Smart Board, Western Red Cedar  
Metal Siding: Ideal Roofing, Charcoal, Corrugated  
Stone: Fieldstone Coloring  
Windows: Vinyl or Fiberglass, Black Frame  
Roofing: Standing Seam Metal, Black

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Line  
L.L.C.  
Custom Home  
Solutions  
CreativeLinePlans.com  
©Ashlie Hull  
801 628-7041



# 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 34-foot 20-foot variance to the 50' natural ephemeral stream corridor setback.

**Agenda Date:** Thursday, May 13, 2021 Thursday, February 11, 2021

**Applicant:** Dennis Barrett (Applicant & Owner)

**File Number:** BOA2021-07 BOA2021-01

### Property Information

**Approximate Address:** 3488 N Elk Ridge Trail, Eden, UT

**Project Area:** 0.45 acres

**Zoning:** Residential Estate (RE-15)

**Existing Land Use:** Vacant Developable Lot

**Proposed Land Use:** Residential

**Parcel ID:** 22-130-0009

**Township, Range, Section:** T7N, R1E, Section 22, NE

### Adjacent Land Use

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Residential	<b>West:</b>	Residential

### Staff Information

**Report Presenter:** Scott Perkes  
sperkes@co.weber.ut.us  
801-399-8772

**Report Reviewer:** SB

## Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 3 (Residential Estates Zones RE-15 and Re-20)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands) Section 2 (Stream Corridors, Wetlands, and Shorelines)

## Development History

On July 2, 1996, the Elkhorn Subdivision Ph. 2 plat was recorded. The subject property of this application is depicted as lot 29 of this subdivision (see **Exhibit B**). This lot is currently undeveloped. However the applicant has submitted for a Land Use Permit and a Building Permit for a single family residence.

On December 5, 2005, the Board of County Commissioners adopted Ordinance 2005-19, which established river and stream corridor setback requirements (see **Exhibit E**).

The original variance request to the Board of Adjustment was submitted on February 1, 2021 for a 20-foot variance which was approved on February 11, 2021.

This amended request to modify the setback from the verified high water mark was submitted on May 3, 2021.

## Background and Project Summary

The applicant is requesting a 34-foot 20-foot variance to the required 50-foot ephemeral stream setback to facilitate the placement of a single-family detached home on the lot. The special circumstance on the property that is driving this variance request is a seasonal/intermittent stream running through the rear of the lot, as shown within a detention basin easement on the Elkhorn Subdivision Ph. 2 subdivision plat (see **Exhibit C**). This stream requires a 50-foot setback from its high water mark, thus creating a large encumbrance on the property.

The Land Use Code (Sec. 104-28-2(b)(1)), states the following regarding ephemeral stream corridor 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...*

*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.*

This section of code was first implemented in 2005 through the adoption of Ordinance 2005-19 (see **Exhibit E**). For reference, the Elkhorn Subdivision Ph. 2 was recorded in July of 1996. As such, this subdivision was originally designed for adequate sizing and configuration of building lots for residential footprints and did not contemplate additional setback requirements beyond the depicted detention basin easement.

For reference, seven total lots within this subdivision (lots 29-34) are affected by this stream. However, only lot 29 (applicant's lot) and lot 33 remain undeveloped. The developed lots 30-32 were either developed prior to Ordinance 2005-19 being adopted, or were permitted without going through the variance process.

The granting of a 34-foot 20-foot variance would allow the applicant to build a home to within 16-feet 30-feet of the stream's high water mark.

When the original variance request was submitted, a high watermark was incorrectly depicted on a site plan submitted by the applicant's builder. Per this erroneous site plan, the applicant's proposed building plans only necessitated a 20-foot variance in order to contain the home's foundation walls and an exterior deck's footings 30 feet away from the high watermark. However, once excavation of the lot was underway, the Building Inspection department notified the Planning and Engineering Divisions that the new setbacks (30-feet) allowed under the approved variance appeared to be encroached. Upon investigation it was found that the home was properly placed on the lot per the front and side setbacks. However because the high watermark was incorrectly depicted on the original site plan, the rear of the home was several feet closer to the stream than was allowed by the modified setbacks.

Unfortunately, the Building Inspection Department found that the home and deck footings were placed outside of the stormdrain easement that is depicted on the plat. As such, the Building Department allowed the applicant to pour the home's foundation footings and walls. However they requested that the exterior deck footings be postponed until Planning and Engineering had a chance to inspect the site.

Upon inspection, Engineering verified the high watermark to be within 16-feet of the rear-most deck footing and within 22-feet of the rear-most corner of the home's foundation wall. Due to these measurements the applicant has re-submitted to amend their original variance request to allow for a 34-foot variance to the 50-foot setback.

## Summary of Board of Adjustment Considerations

LUC §102-3 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 Analysis

Listed below is staff's analysis:

- a. Literal enforcement of the 50-foot ephemeral stream setback would limit the placement of a single-family detached home on the lot.
- b. The special circumstance that exists on the property is the location of the ephemeral stream and its required 50-foot setback from high water marks. As mentioned above, this setback requirement was adopted 9 years following the recording of the associated Elkhorn Subdivision Ph. 2. As such, the lot was not designed during the subdivision process to accommodate additional setbacks to the ephemeral stream. The stream's 50-foot setbacks from high water marks, coupled with the required structural setbacks of the RE-15 zone, significantly reduces the lot's developable area (see **Exhibit C**). Thereby limiting the placement of a single-family home as compared to the placement of homes on other residential lots in the subdivision.
- c. Granting the variance would allow the owner of the parcel to build a single-family home in a location on the lot that would be similar to adjacent residences and other single-family lots found in the RE-15 zone.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and future residential development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. The applicant has gone through the proper channels in applying for a variance. The proposal still observes the detention basin easement, as was originally required at the time of subdivision.

It should be mentioned that the entirety of the home continues to remain outside of the drainage easement as was originally intended by the design of the lot when the Elkhorn Subdivision Ph. 2 was originally platted. Additionally, the Engineering Division has reviewed the proposed placement of the home's foundation and deck footings in relation to the correct high water mark and do not have any concerns regarding stability or potential for erosion given the depth of the stream channel and upstream flow regulation infrastructure.

### Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the RE-15 zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

### Agency Reviews

To-date, Engineering, Building, and Fire have reviewed and approved the [originally](#) proposed single-family dwelling building plans. [As indicated above, Engineering does not have any concerns regarding the correct placement of the home in relation to the stream.](#)

### Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis. Should the Board concur with staff's findings, the requested [34-foot](#) ~~20-foot~~ variance could be granted.

### Exhibits

- A. [Variance Application & Narrative](#)
- B. Elkhorn Subdivision, Phase 2 Dedication plat (07/02/1996)
- C. Site Plan Showing Required Setbacks
- D. [UPDATED Site Plans Depicting Verified High Watermark](#)
- E. Ogden Valley Sensitive Lands - Stream Corridor Map
- F. Ordinance 2005-19 (Excerpt)



## Area Map



## Exhibit A: Updated Variance Narrative

We are requesting a variance to place our deck footings in the back of our home along the seasonal stream located on our property. We had previously requested a variance of 20 feet and that was granted to us. During that process, we submitted all necessary documentation and it was approved.

We (homeowners) and our contractor, Dan Kurek, were all under the impression that we needed the initial variance only for the actual home, not the deck footings. Our building permit was granted and we proceeded to excavate and pour the house footings. When the footings inspection took place, we were told that the deck footings would not be within the variance allowance initially granted.

We have stopped all construction and are now applying for an additional variance. The exact amount of variance we need will be determined upon a new site plan to be conducted by Gardner Engineering. They will determine the distance from the proposed deck footings and also from the house footings that have already been poured to the seasonal stream as requested by Scott Perkes at Weber County Planning.

We will submit the new site plan as soon as it is available to us. This should be done by May 5, 2021.

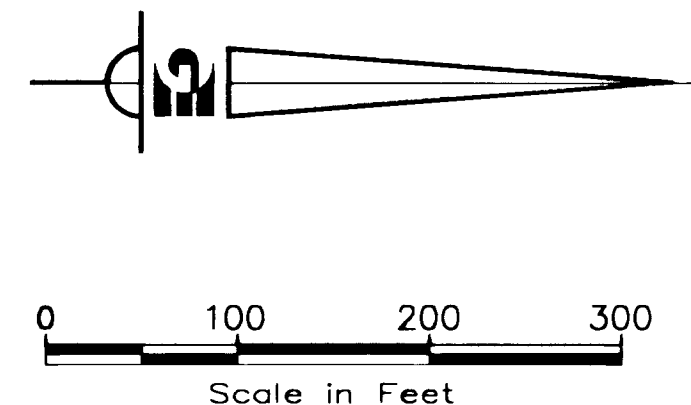


## Exhibit B

## ELKHORN SUBDIVISION, PHASE 2

PART OF THE SOUTHEAST 1/4 OF SECTION 22  
AND PART OF THE NORTHEAST 1/4 OF SECTION 27  
T7N, R1E, SLB&M, U.S. SURVEY

WEBER COUNTY, UTAH  
JUNE 1996



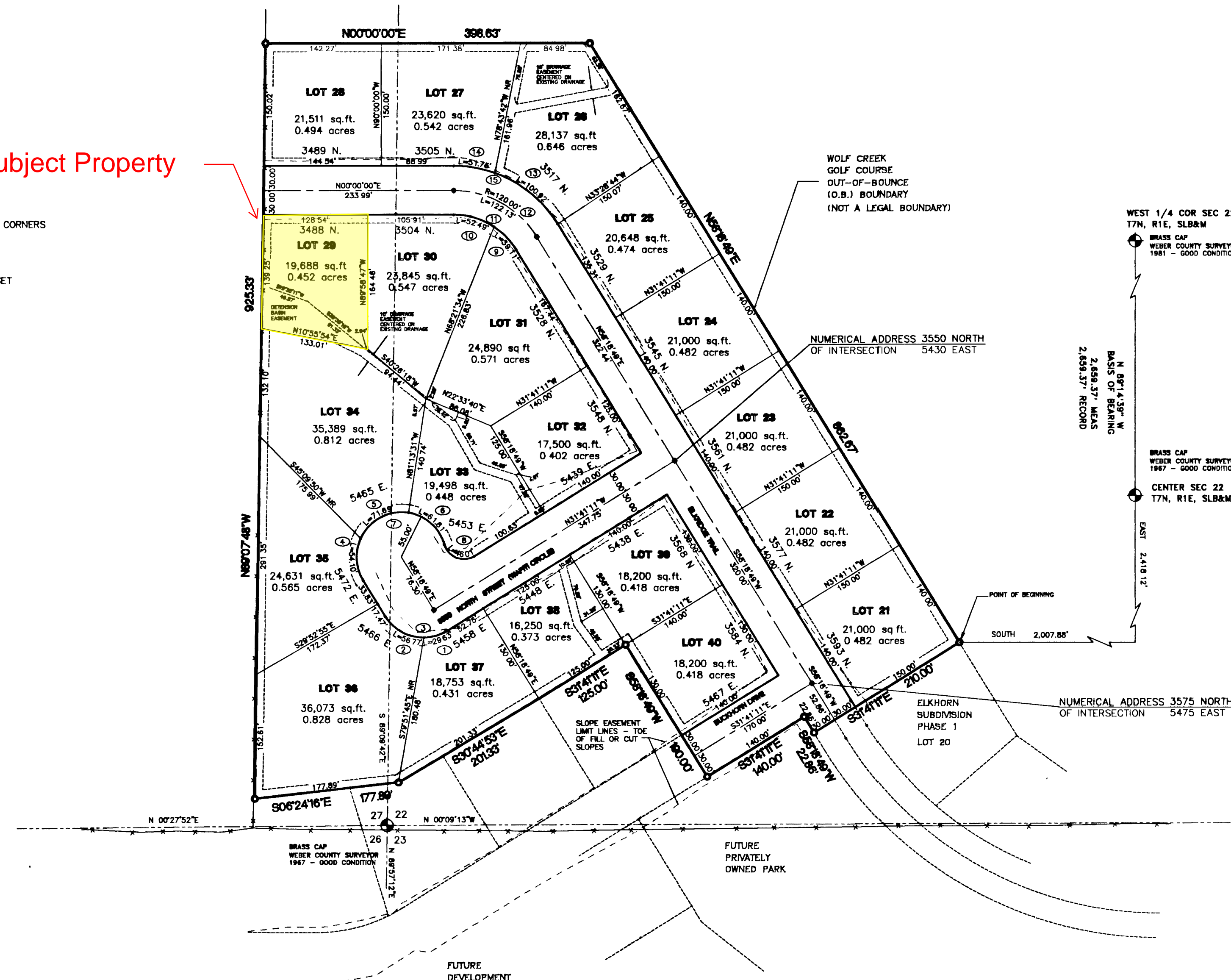
## NOTES

1. REBAR AND YELLOW PLASTIC SURVEY CAPS (GARDNER ENG. LS 154270) TO BE SET AT ALL REAR PROPERTY CORNERS. NAILS TO BE SET IN CURB AT ALL FRONT PROPERTY CORNERS.
2. 10' PUBLIC UTILITY EASEMENT TYPICAL AS SHOWN UNLESS OTHERWISE NOTED.
3. LOCATION OF STREET SURVEY MONUMENT TO BE SET NR = NON-RADIAL LOT LINE.

Subject Property

CURVE DATA TABLE

CURVE	RADIUS	DELTA	TANGENT	LENGTH	CHORD BRG.	CHORD DIST.
1	55.00'	30°51'42"	15.18'	29.63'	S16°15'20"E	29.27'
2	55.00'	59°08'18"	31.21'	56.77'	S28°44'40"W	54.28'
3	55.00'	90°00'00"	55.00'	86.39'	S13°18'49"W	77.78'
4	55.00'	56°21'45"	29.47'	54.10'	S86°29'41"W	51.95'
5	55.00'	74°41'11"	41.96'	71.69'	N27°58'51"W	66.72'
6	55.00'	64°23'35"	34.63'	61.81'	N41°33'32"E	58.61'
7	55.00'	195°26'31"	405.67'	187.61'	S23°57'56"E	109.00'
8	25.00'	105°26'31"	32.84'	46.01'	N21°02'04"E	39.78'
9	90.00'	24°53'57"	27.01'	39.11'	S45°51'51"W	38.80'
10	90.00'	33°24'52"	19.87'	52.49'	N16°42'26"E	51.75'
11	90.00'	58°18'49"	50.21'	91.60'	S29°09'25"W	87.70'
12	120.00'	58°18'49"	66.95'	122.13'	S29°09'25"W	116.93'
13	150.00'	38°32'50"	52.45'	100.92'	N39°02'24"W	99.02'
14	150.00'	19°45'59"	26.13'	51.75'	N09°52'59"W	51.49'
15	150.00'	58°18'49"	83.68'	152.66'	S29°09'25"W	146.16'



## NARRATIVE

THIS SURVEY AND SUBSEQUENT SUBDIVISION PLAT WERE COMPLETED AT THE REQUEST OF THE WOLF CREEK ASSOCIATES FOR THE PURPOSE OF SUBDIVIDING THEIR PROPERTY TO CREATE RESIDENTIAL LOTS.

## DEVELOPER

WOLF CREEK ASSOCIATES  
LOWELL PETERSON

## ACKNOWLEDGEMENT

STATE OF UTAH )  
COUNTY OF WEBER ) SS  
ON THIS 2nd DAY OF July, 1996,

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN SAID STATE OF UTAH, THE SIGNER OF THE ABOVE OWNER'S DEDICATION, TWO (2) IN NUMBER, WHO DULY ACKNOWLEDGED TO ME HE SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSES THEREIN MENTIONED.



NOTARY PUBLIC

## ACKNOWLEDGEMENT

STATE OF UTAH )  
COUNTY OF WEBER ) SS

ON THIS \_\_\_\_ DAY OF \_\_\_\_, 1996, PERSONALLY

APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF WEBER, IN SAID STATE OF UTAH, BEING BY ME DULY SWORN, ACKNOWLEDGED TO ME THAT HE IS \_\_\_\_ OF SAID CORPORATION AND THAT HE SIGNED THE ABOVE OWNER'S DEDICATION AND CERTIFICATION IN BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BOARD OF DIRECTORS, AND SAID \_\_\_\_ ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE SAME.

STAMP

NOTARY PUBLIC

## SURVEYOR'S CERTIFICATE

I, KEN E. GARDNER, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 154270, 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 AND THAT THE REFERENCE MARKERS SHOWN ON THIS SUBDIVISION PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY, THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE BELOW DESCRIBED TRACT OF REAL PROPERTY AND OF EACH OF THE LOTS LOCATED ON SAID TRACT AND THIS SUBDIVISION PLAT COMPLIES WITH THE PROVISIONS OF THE CURRENT SUBDIVISION AND ZONING ORDINANCE REGULATIONS OF WEBER COUNTY.

## BOUNDARY DESCRIPTION

A PART OF THE SOUTHEAST 1/4 OF SECTION 22 AND A PART OF THE SOUTHWEST 1/4 OF SECTION 27, T7N, R1E, SLB&M, BEGINNING AT A POINT AT THE SOUTHWEST CORNER OF ELKHORN SUBDIVISION PHASE 1 LOT # 20 SAID POINT BEING EAST 2,418.12 FEET AND SOUTH 2,007.88 FEET FROM THE CENTER OF SECTION 22, T7N, R1E, SLB&M (BASIS OF BEARING: N 89°14'39" W FROM SAID CORNER TO THE WEST 1/4 CORNER OF SEC 22); THENCE

## COURSES:

S 31°41'11" E 210.00 FT. ALONG SAID ELKHORN PHASE 1, THENCE  
S 58°18'49" W 22.86 FT. THENCE;  
S 31°41'11" E 140.00 FT. THENCE;  
S 58°18'49" W 190.00 FT. THENCE  
S 31°41'11" E 125.00 FT. THENCE;  
S 30°44'53" E 201.33 FT. THENCE;  
S 06°24'16" E 177.89 FT. TO AND EXISTING FENCELINE; THENCE  
N 89°07'48" W 925.33 FT. ALONG SAID FENCELINE; THENCE  
N 00°00'00" E 398.63 FT. TO THE WOLF CREEK GOLF COURSE (O.B.) BOUNDARY; THENCE  
N 58°18'49" E 862.67 FT. ALONG SAID (O.B.) BOUNDARY TO THE POINT OF BEGINNING.

CONTAINS: 12.716 ACRES / 553,915 S.F.



## OWNER'S DEDICATION

WE, THE UNDERSIGNED OWNERS OF THE HEREON DESCRIBED TRACT OF LAND, HEREBY SET APART AND SUBDIVIDE THE SAME INTO LOTS AND STREETS AS SHOWN ON THIS PLAT AND NAME SAID TRACT

ELKHORN SUBDIVISION, PHASE 2

AND DO HEREBY DEDICATE, GRANT AND CONVEY TO WEBER COUNTY, UTAH ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS STREETS THE SAME TO BE USED AS PUBLIC THOROUGHFARES FOREVER, AND HEREBY GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT OVER, UPON AND UNDER THE LANDS DESIGNATED ON THE PLAT AS PUBLIC UTILITY, STORM WATER DETENTION PONDS, DRAINAGE AND CANAL MAINTENANCE EASEMENTS, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE, AND OPERATION OF PUBLIC UTILITY SERVICE LINES, STORM DRAINAGE FACILITIES, IRRIGATION CANALS OR FOR THE PERPETUAL PRESERVATION OF WATER DRAINAGE CHANNELS IN THEIR NATURAL STATE WHICHEVER IS APPLICABLE AS MAY BE AUTHORIZED BY WEBER COUNTY, UTAH, WITH NO BUILDINGS OR STRUCTURES BEING ERECTED WITHIN SUCH EASEMENTS.

SIGNED THIS 2nd DAY OF July, 1996

WOLF CREEK ASSOCIATES  
LOWELL PETERSON, GENERAL PARTNER

Blaine Wade  
WOLF CREEK ASSOCIATES  
BLAINE WADE, GENERAL PARTNER

Prepared By:



5150 SOUTH WASHINGTON BLVD.  
OGDEN, UT 84405

(801)476-0202

## COUNTY RECORDER

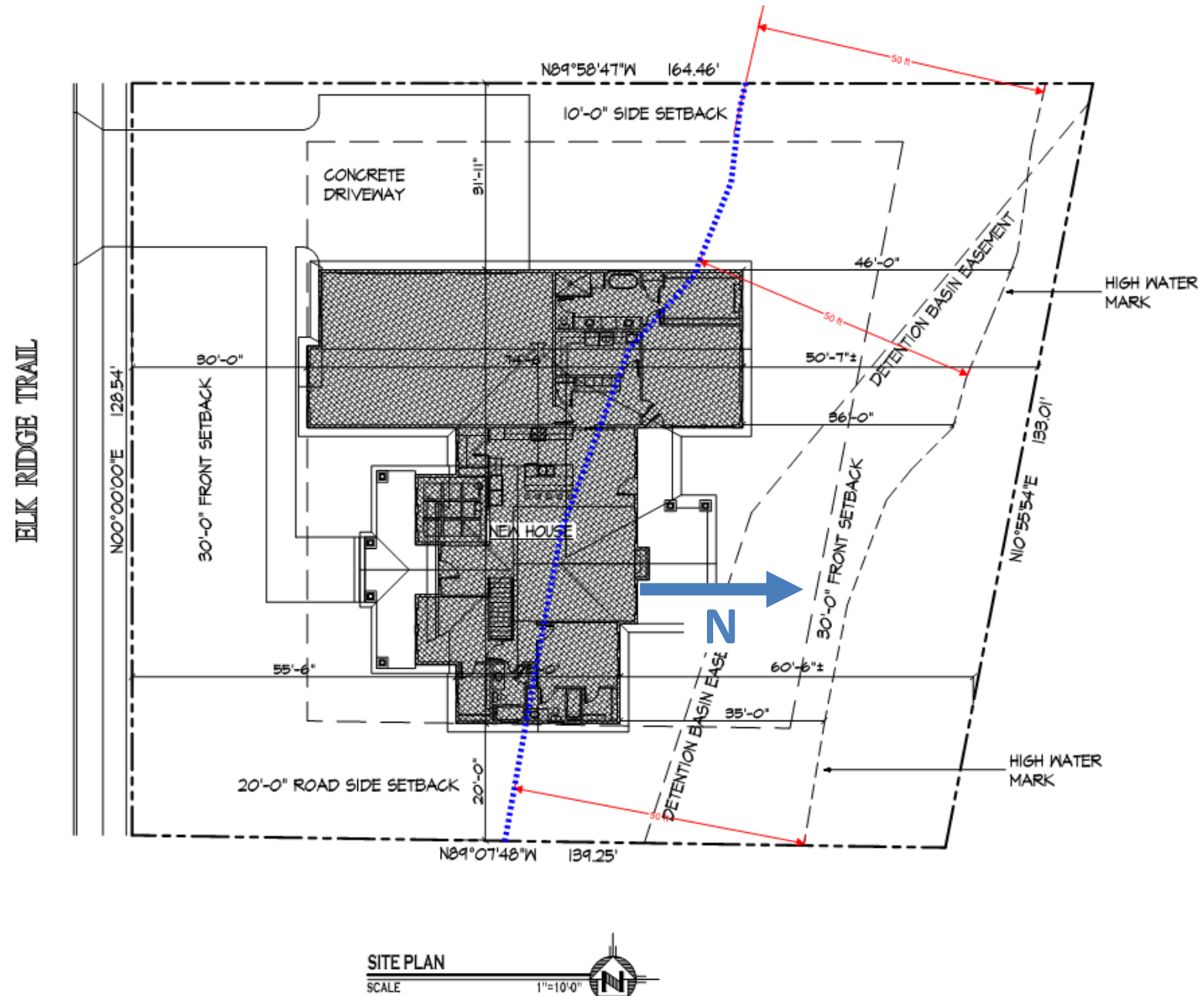
ENTRY NO. 415847 FEE PAID \$50.00 FILED FOR RECORD AND RECORDED 02-JUL-96, AT 2:41 PM IN BOOK 42 OF OFFICIAL RECORDS, PAGE 43 RECORDED FOR WOLF CREEK ASSOC.

Dana Crofts  
COUNTY RECORDER  
By: Arnie Warner  
DEPUTY

D:\DRAWINGS\WOLF CREEK\ELKHORN2.DWG



## Exhibit C: Site Plan Showing Setbacks

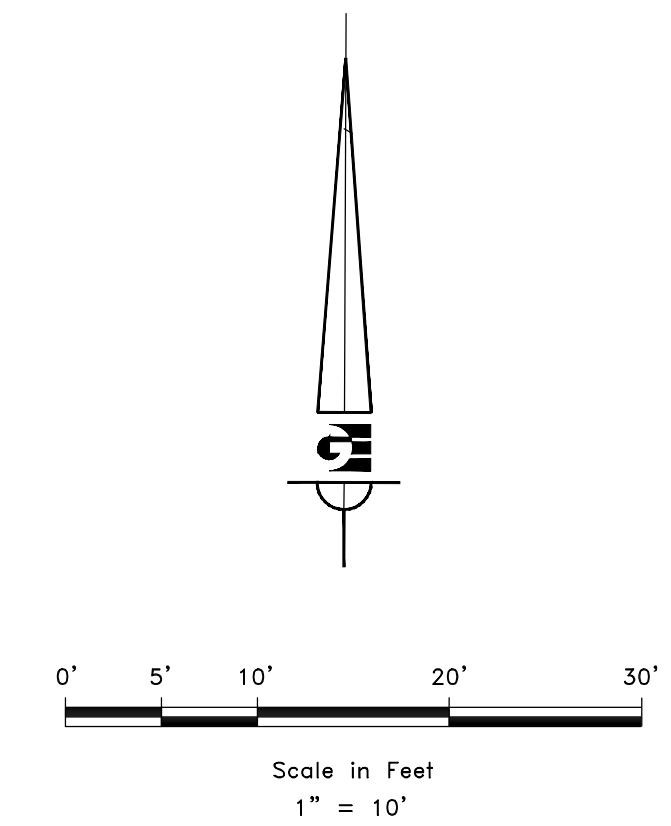













## Exhibit D

### BOUNDARY DESCRIPTION

ALL OF LOT 29, ELKHORN SUBDIVISION PHASE 2, ACCORDING TO THE OFFICIAL PLAT THEREOF ON  
FILE WITH THE WEBER COUNTY RECORDER.



## LEGEND

-  WEBER COUNTY MONUMENT AS NOTED  
 SET 24" REBAR AND CAP  
 MARKED GARDNER ENGINEERING  
 SUBJECT PROPERTY BOUNDARY  
 LOT LINE  
 ADJACENT PARCEL  
 SECTION LINE  
 PLATTED EASEMENT  
 EXISTING FENCE LINE  
 HIGH WATER PER WEBER COUNTY

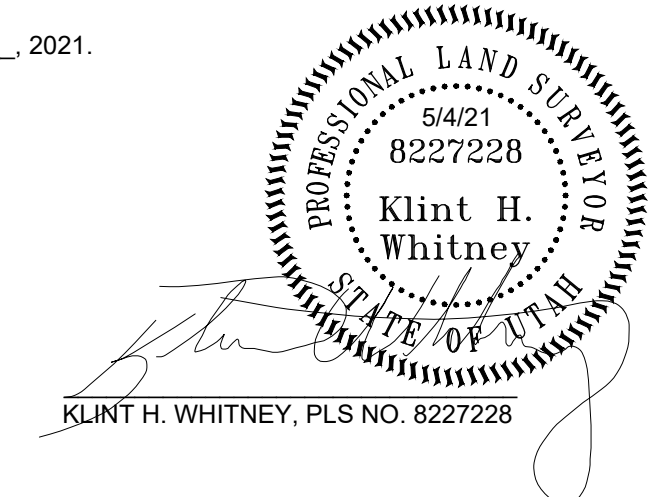
## NARRATIVE

THE PURPOSE OF THIS SUBDIVISION WAS TO IDENTIFY THE RELATIONSHIP BETWEEN THE EXISTING FOUNDATION AND PROPERTY LINES AND LINES DELINEATED BY WEBER COUNTY.

### SURVEYOR'S CERTIFICATE

I, KUNT H. WHITNEY, DO HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH AND THAT I DO NOT CERTIFY TO ANY 8272228 IN ACCORDANCE WITH TITLE 50, CHAPTER 22, OF THE UTAH CODE, WHICH RELATES TO PROFESSIONAL ENGINEERS AND LAND SURVEYORS. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS RECORD OF SURVEY PLAT IN ACCORDANCE WITH SECTION 17-23-20 AND HAVE VERIFIED ALL MEASUREMENTS; THAT THE REFERENCE MONUMENTS SHOWN ON THIS RECORD OF SURVEY PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY; AND THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY.

SIGNED THIS 4TH DAY OF MAY, 2021.



REVISIONS

DATE	DESCRIPTION

SCALE: 1" = 10'

DATE: 5/4/21

DESIGN: XXXXXXXXXX

DRAWN: KHW

CHECKED: KHW

DWG. #: 032001 - HUSC SURVEY 2024 - GENUS BARRETT SURVEY CONGENS BARRETT SITE PLANNING

SITE PLAN FOR DENNIS BARRETT

3488 NORTH ELKRIDGE TRAIL, EDEN, UTAH

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22,

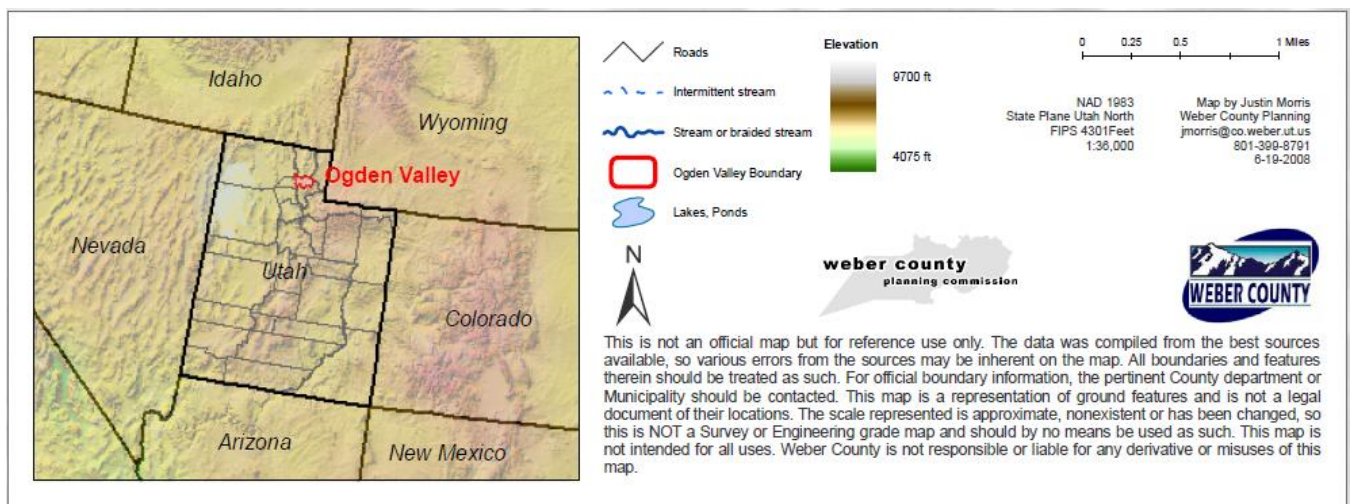
TOWNSHIP 7 NORTH, RANGE 1 EAST, S.L.B. AND M.

**GARDNER  
ENGINEERING**  
CIVIL • LAND PLANNING  
MUNICIPAL • LAND SURVEYING  
5150 SOUTH 375 EAST OGDEN, UT  
OFFICE: 801-476-0202 FAX: 801-476-0066

S1

1

## Exhibit E: Ogden Valley Sensitive Lands – Stream Corridor Map



Summary of Ordinance No. 2005-19

An Ordinance of Weber County, amending the zoning ordinance by adding Section 23-37 River and Stream Corridors. The new section places setback requirements for building adjacent to year-round and ephemeral streams, with the exception of a segment of the Ogden River below Pineview Reservoir. Was adopted and ordered published the 20th day of December 2005, by the Board of County Commissioners of Weber County, Utah, with Commissioners Bischoff, Cain and Dearden voting aye.

A copy of the complete ordinance is available for public inspection at the office of the Weber County Clerk/Auditor, 2380 Washington Blvd, Suite 320 Ogden, Utah.

**An Ordinance of Weber County, amending Chapter 23 of the Zoning Ordinance by adding Section 23-37, River and Stream Corridor Setbacks.**

**WHEREAS**, Weber County finds that river and stream corridors provide important aesthetic ecological and recreational resources, including wildlife habitat, and the protection of water quality in the County's rivers and streams; and

**WHEREAS**, these resources are put at risk of being lost or significantly impaired due to land development activities within river and stream corridors; and

**WHEREAS**, the need to protect river and stream corridors is identified in both the Ogden Valley and West Central Weber County General Plans.

**NOW THEREFORE**, The Board of County Commissioners of Weber County, State of Utah, Ordain as follows:

The Uniform Zoning Ordinance of Unincorporated Weber County is hereby amended by adding Section 23-37, River and Stream Corridor Setbacks:

## CHAPTER 23

### SUPPLEMENTARY AND QUALIFYING

- 23-1. Effect of Chapter
- 23-2. Lots in Separate Ownership
- 23-3. Yard Space for One Building Only
- 23-4. Every Dwelling to be on a "Lot"
- 23-5. Separately Owned Lots - Reduced Yards
- 23-6. Sale or Lease of Required Space
- 23-7. Creation of Lots Below Minimum Space Requirements
- 23-8. Yards to be Unobstructed - Projections Permitted into Required Yards
- 23-9. Wall, Fence, or Hedge May be Maintained
- 23-10. Area of Accessory Building
- 23-11. Deleted Section - 2002-9
- 23-12. Exceptions to Height Limitations
- 23-13. Minimum Height of Main Building
- 23-14. Deleted Section - 2002-9
- 23-15. Clear View of Intersecting Streets
- 23-16. Animals and Fowl
- 23-17. Water and Sewage Requirements
- 23-18. Effect of Official Map
- 23-19. Signs and Lighting
- 23-20. Lots and Dwellings on Private Rights-of-Way, Special Provisions



23-21. Required Building Setb. from Designated Collector or Arterial Street

23-22. Group Dwelling Special Regulations

**Exhibit F: Ordinance 2005-19 (Excerpt)**

23-23. Zero Side Yards

23-24. Dish Antennas

23-25. Towers

23-26. Residential Facility for Persons with a Disability - Facility Requirements 17-87

23-27. Residential Facility for Troubled Youth - Facility Requirements 6-92

23-28. Residential Facility for Elderly Persons - Facility Requirements 12-91

23-29. Large Accessory Buildings 14-91, 19-04

23-30. Building in Newly Approved Subdivisions and Planned Residential Unit Developments 14-91, 2002-9

23-31. Deleted

23-32. Family Swimming Pool 14-92

23-33. Building on Dedicated Streets or Public By Right of Use Roads which are below County Improvement and/or R.O.W. Width Standards

23-34. Dwelling or Sleeping in Recreational Vehicles

23-35. No Obstruction of Irrigation Ditches, Drains and/or Canals 2002-9

23-36. Temporary Real Estate Sales Office 2003-8

**23-37. River and Stream Corridor Setbacks**

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**23-1. Effect of Chapter.**

The regulations hereinafter set forth in this Chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this Ordinance.

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**23-2. Lots in Separate Ownership.**

The requirements of this Ordinance as to minimum lot area or lot width shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land in the event that such lot or parcel of land is held in separate ownership at the time this ordinance becomes effective.

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**23-3. Yard Space for One Building Only.**

No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

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**23-4. Every Dwelling to be on a "Lot".**

Every dwelling shall be located and maintained on a "lot" as defined in this Ordinance; such lot shall have the required frontage on a public or approved private street or on a right-of-way which has been approved by the Board of Adjustment.

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**23-5. Separately Owned Lots - Reduced Yards.**

On any lot under a separate ownership from adjacent lots and on record at the time of passage of this Ordinance, and such lot having a smaller width than required for the zone in which it is located, the width of each of the side yards for a dwelling may be reduced to a width which is not less than the same percentage of the width of the lot as the required side yard would be of the required lot width provided that on interior lots the smaller of the two yards shall be in no case less than five (5) feet, or the larger less than eight (8) feet; and for corner lots the side yard on the side street shall be in no case less than ten (10) feet or the other side yard be less than five (5) feet.

### 23-36. Temporary Real Estate Sales Office

### Exhibit F: Ordinance 2005-19 (Excerpt)

A temporary real estate sales office may, by Conditional Use Permit, be allowed within the model home or the garage area of a model home located within a residential subdivision development of ten (10) or more lots or phase of more than ten (10) lots, for the sale of real estate within that specific subdivision.

1. A Building Permit may be issued for the temporary sales office 15 days after approval of the Conditional Use Permit; however, prior to use, shall meet all requirements of the Zoning Ordinance and Subdivision Ordinance prior to issuance of a Certificate of Occupancy.
2. The front yard of the Model Homes with temporary sales offices shall be landscaped, as approved with the Conditional Use Permit.
3. If the sales office is established in the garage, the garage door may be temporarily replaced with French doors, sliding glass doors or as approved by the Planning Commission with the Conditional Use Permit. Permanent changes to the site are prohibited. When the temporary use expires, the applicant shall restore the structure to its originally intended use as a residence and/or garage.
4. Temporary Sales Office is limited to one per development or phase, if development is a minimum of ten (10) or more lots and if the phase is a minimum of ten (10) or more lots.
5. Permanent signs are prohibited. The size and location of signs shall be in compliance with applicable provisions of the Zoning Ordinance for the zone in which the use will be conducted and as approved with the Conditional Use Permit. All signs shall be removed when the Permit expires. Any zoning requirements for lighting shall be in compliance
6. Hours of operation shall be limited from 8:00 a.m. to 8:00 p.m.
7. A Conditional Use Permit for temporary sales office in a model home shall be limited to a five (5) year time period, from the time the Certificate of Occupancy is issued. Time Extensions to be considered on a case by case basis by the Planning Commission.
8. If construction of the model home temporary sales office is not completed within one (1) year of the approval by the Township Planning Commission, the Permits shall be considered to be null and void.

### 23-37. River and Stream Corridor Setbacks

No Structure, accessory structure 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 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 flora and fauna along the river or stream.

1. Structures, accessory structures or parking areas shall not be developed or located within 100 feet on both sides of the Weber River and the North Fork, South Fork and Middle Fork of the Ogden River, from the high water mark of the river.
2. Structures, accessory structures, 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.
3. Structures, accessory structures, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.

#### Exceptions:

1. Bridges or stream alterations approved by the Army Corps of Engineers and Utah Department of Water Resources, Division of Water Quality.

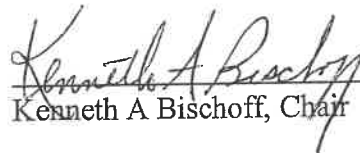
Exhibit F: Ordinance 2005-19 (Excerpt)

2. Trails built in conformance to Chapter 40, Ogden Valley Pathways, of the Zoning Ordinance.
3. The Ogden River below Pineview Reservoir to its' confluence with the Weber River.

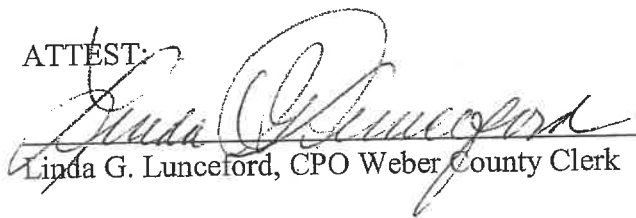
Streams are those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include storm water runoff devices or entirely artificial watercourse unless they are used to store or convey pass through stream flows naturally occurring prior to construction of such devices. Stream water courses where the definition may apply are those that appear on the U.S.G.S. Quad maps.

Passed, Adopted and Ordered published this 20th day of December, 2005, by the Board of County Commissioners of Weber County, Utah,

Commissioner Bischoff	Voting	<u>aye</u>
Commissioner Cain	Voting	<u>aye</u>
Commissioner Dearden	Voting	<u>aye</u>

  
Kenneth A Bischoff, Chair

ATTEST:

  
Linda G. Luncelord, CPO Weber County Clerk