



BOARD OF ADJUSTMENT

MEETING AGENDA

**Thursday, July 11, 2024
4:30 p.m.**

- *Pledge of Allegiance*
- *Roll Call*

Regular Agenda Items

1. **Minutes: April 25, 2024**
2. **BOA 2024-04:** *Consideration and action on a request for an 8' variance to the front yard setback, a 14' variance to the west side, a 5' variance to the east side, and a 10' variance to the rear yard setback.*
Planner: Felix Lleverino

Adjournment

*The Board of Adjustments meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor,
2380 Washington Blvd., Ogden, Utah*
***In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the
Weber County Planning Commission at 801-399-8374***

April 26, 2024

Minutes of the Board of Adjustments meeting of April 26, 2024, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm.

Member Present **Bryce Froerer**
 Rex Mumford
 Jannette Borklund

Staff Present: Rick Grover, Planning Director; Tammy Aydelotte, Planner; Brandon Quinney, Legal Counsel; Tiffany Snider, Secretary; Marta Borchert, Secretary

- **Pledge of Allegiance**
- **Roll Call**

1. Election of Chair and Vice Chair

Rex Mumford nominates Bryce Froerer for Chair. Motion carries (3-0)

Bryce Froerer nominates Laura Warburton as Vice Chair provided that she reapplies for the position. Motion carries (3-0)

2. Minutes: September 22, 2022. Approved as presented

3. BOA 2024-02: Consideration and action on a request for a 5-foot variance to the front yard setback and a 10-foot variance to the rear yard setback to facilitate the construction of a single-family residence at 6743 Chaparral Drive, Eden. This request was previously approved on 3/18/2021, but has expired, per Weber County LUC 102-3-5(d)(1) "If the board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void." The applicant is seeking a second approval of this same request.

Staff Presenter: Tammy Aydelotte

Tammy Aydelotte states that the exhibits that have been inadvertently left out of the minutes were distributed to the present Board Members and Present Planning Staff. Chair Froerer acknowledges that the exhibits have been received. Ms. Aydelotte states that this item came before the Board on March 18th 2021. She notes that the lot is located in the FR-3 Zone, it is 6534 sq. ft. Minimum width is 60' minimum lot area is 6000 sq. ft. Setbacks Front 25' Rear 30' Side 8', 20' on a side facing street. Max Height 35' and the Max lot coverage is 40%. This is located at the top of Powder Mountain Road in the Powder Mountain West Subdivision. There is a parcel to the North East and that is the same size but it is a different shape. She show the Board the difference in buildable area if the request is granted.

Chair Froerer asks if the North side of this lot is within the requirements. Ms. Aydelotte states that the way the ordinance defines a front lot line is the parcel line that you cross to access the lot.

Mr. Mumford states that based on where the owner of lot 16 is proposing to enter if they enter from the same direction, as lot 15 the back setback would not require a rear adjustment. Ms. Aydelotte states that it may not require a rear adjustment but the applicant is looking at slope as well. There is an upward slope. The applicant is trying to shape the footprint of the home similarly to the current architectural styles. She notes that they are asking to build a 1000 sq. ft. home. Compared to the adjacent footprints it is the smallest footprint. They don't feel that they could put the 1000 sq. ft. print without the variance request being granted.

Chair Froerer asks if this is the first time they have been asked to approve a development closer to the road. Ms. Aydelotte states they have been asked before. She notes that the request has not been made on this stretch of road, but on the South side because

April 26, 2024

there is a ski easement that cuts through a portion of the lots. There have been a few variance requests. She adds that what is unique about this lot is the shape. This is the only lot in this shape.

She notes that nothing has changed in the applicants request since the approval in 2021. Mr. Mumford asks if there has been any change in zoning. Ms. Aydelotte states that there has not.

Mr. Mumford asks if they have received any comments from any of the neighboring home owners. Ms. Aydelotte states that she has not.

Motion: Rex Mumford moves to BOA 2024-02: Consideration and action on a request for a 5-foot variance to the front yard setback and a 10-foot variance to the rear yard setback to facilitate the construction of a single-family residence at 6743 Chaparral Drive, Eden. Jannette Borklund seconds with the a friendly amendment that it is based on the findings that it meets the 5 criteria. Motion carries (3-0)

3. Rules of Order

Director Grover states that they will updating the rules of order. He notes that moving forward the County Commission will be approving the Rules of Order.

Rex Mumford states that only item that stands out to him. Item K, which states nonperformance or misconduct removal in the event any member shall fail to attend more than 70 percent of the meetings. He notes that it should be worded a bit differently. It should say "atleast" not "more than" he asks if they have ever removed anyone for not meeting the criteria. Director Grover states that they have not. Mr. Mumford states that the bar is high considering how frequently the Board meets. Director Grover states that the reason is that the Board is small, and they need members to attend as much as possible. Janette Borklund states that the more people are present the better discussions they can have. Mr. Mumford states that he is wondering if they are following Item k. He notes that even when they would meet frequently many members were not meeting the 70 percent. Director Grover states that they could have easily put the item K. into place and removed them. Chair Froerer states that the qualifier is the word "May" not "Shall" or "Must".

Brandan Quinney states he would like to work with Director Grover to clarify the language together. Directors Grover agrees and states that they can bring it back to the next meeting.

Chair Froerer states that they will address the issue at the next meeting. He asks if there is any other discussion on the Rules. Rex Mumfords states that he is not sure if it is in the Rules of Order but he feels that the Board ought to convene at least once a year no matter if there is no items at the beginning of the year, if only to approve the minutes and appoint a new Chair and Vice Chair. Chair Froerer states that he agrees and he believes that it would be appropriate to meet in January. Director Grover states that they can do that.

Respectfully Submitted,
Marta Borchert
Planner Technician



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 8' variance to the front yard setback, a 14' variance to the west side, a 5' variance to the east side, and a 10' variance to the rear yard setback.
Agenda Date:	Thursday, July 11, 2024
Applicant:	Tyler McCue, Representative
File Number:	BOA 2024-04

Property Information

Approximate Address:	5505 Old Snowbasin Road, Utah
Project Area:	.65 acres
Zoning:	Forest Valley (FV-3)
Existing Land Use:	Residential
Proposed Land Use:	Residential
Parcel ID:	20-035-0047
Township, Range, Section:	T6N, R1E, Section 23

Adjacent Land Use

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

Staff Information

Report Presenter:	Felix Lleverino flleverino@co.weber.ut.us 801-399-8767
Report Reviewer:	TA

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 5 (Forest Valley 3 Zone)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands) Section 2 (Stream Corridors, Wetlands, and Shorelines)

Development History

This parcel of land is shown on the 1966 ownership plat and, therefore, the Weber County Planning Division does consider this a nonconforming buildable parcel.

This exact proposal was presented before the Board of Adjustment on October 22nd, 2020 at which time it was approved.

Background

The applicant is requesting variances to the front, sides, and rear minimum yard setbacks of the Forest Valley (FV-3) zone for the construction of a single-family dwelling (see Exhibit B for the required minimum setbacks for the zone). The applicant feels that a variance is necessary to build their desired home. The applicant cites the shape of the parcel, the square footage of the parcel, and ridgeline location as unique circumstances that should justify a variance to the setbacks.

The applicant have provided a site plan to help visualize the home placement with the reduced setbacks requested. The board of adjustment may review the proposal and make variations to the request.

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.*

The list below are points taken from the applicant's narrative:

- a. The applicant's narrative states that literal enforcement of the setbacks "pose limitations that hinder the owner's ability to develop and utilize the property to its full potential."
- b. The applicant states that the lot size of .75 acres is a special circumstance that exists that does not generally apply to other properties in the same zone.
- c. The applicant's narrative provides an argument that granting a variance is essential to the enjoyment of a substantial property right that is possessed by other properties in the same zone because this property is located on a ridge which limits the height of the home to 35 feet and that the rear of the property is at a slope.
- d. The General Plan indicates that this area should be developed as planned and zoned. The applicant states that "adjusting these regulations will enhance the functionality and aesthetics of the property while remaining in compliance with local zoning ordinances and regulations."
- e. The applicant's narrative explains that the impact on the neighboring properties is minimal, and in the best interest of the community.

Exhibits

- A. Applicant's Narrative
- B. Roof Plan
- C. 1st 2nd 3rd Floor Plan
- D. Survey

Area Map



Exhibit A

Dear Weber County Board of Adjustment,

I hope this letter finds you well. My name is Tyler McCue, representative for Applegarth's. I am writing to request an adjustment to the setback and easement regulations on their property located at 5505 Old Snowbasin Rd.

After careful consideration and consultation with professionals in the field, I believe that a modification to the existing setback and easement requirements would allow for more efficient and practical use of the property while still maintaining the integrity and safety of the surrounding area. In 2020 this was approved for the previous owner. We are requesting the same setbacks be reinstated. Since the setbacks we are requesting were in place when the owner purchased the property, the desire from the owner is to develop the property according to the approved setbacks at the time of purchase. The current setback and easement regulations substantially limit and hinder the owner's ability to develop and utilize the property to its full potential.

The current easement consumes approximately half the lot. It is our understanding that the current setbacks are in accordance with the neighboring Sundance Ridge subdivision, with lots ranging from 3-5 acres. This property is NOT part of that subdivision and is only .75 acres. Holding this property to a similar setback is unreasonable due to its smaller size, and greatly restricts our ability to properly improve upon. The configuration and slope at the rear of the property, and the ridge line limits the building height of only 35 ft. Granting a variance is essential to the enjoyment of the owner's rights that are possessed by other property owners in the same area. By adjusting these regulations, the owners desire to enhance the functionality and aesthetics of the property while remaining in compliance with local zoning ordinances and regulations.

I have attached detailed plans and documentation outlining the proposed adjustments, including how they align with the overall zoning and development goals of the area. I have also considered any potential impact on neighboring properties and have ensured that the proposed modifications are reasonable and in the best interest of the community. We also received approval from the neighbors for this development.

I understand the importance of adhering to established regulations including flood damage control, COE regulations, and Weber County codes and zoning. I am committed to working closely with the city and any relevant stakeholders throughout this process. I am open to discussing any concerns or suggestions that may arise and am willing to provide additional information or clarification as needed.

Thank you for considering my request. I look forward to the opportunity to collaborate with the city of Weber County to achieve a mutually beneficial solution that allows for the responsible and sustainable development of Applegarth's property.

Sincerely,



Tyler McCue

Estimator | Magleby Professional Services

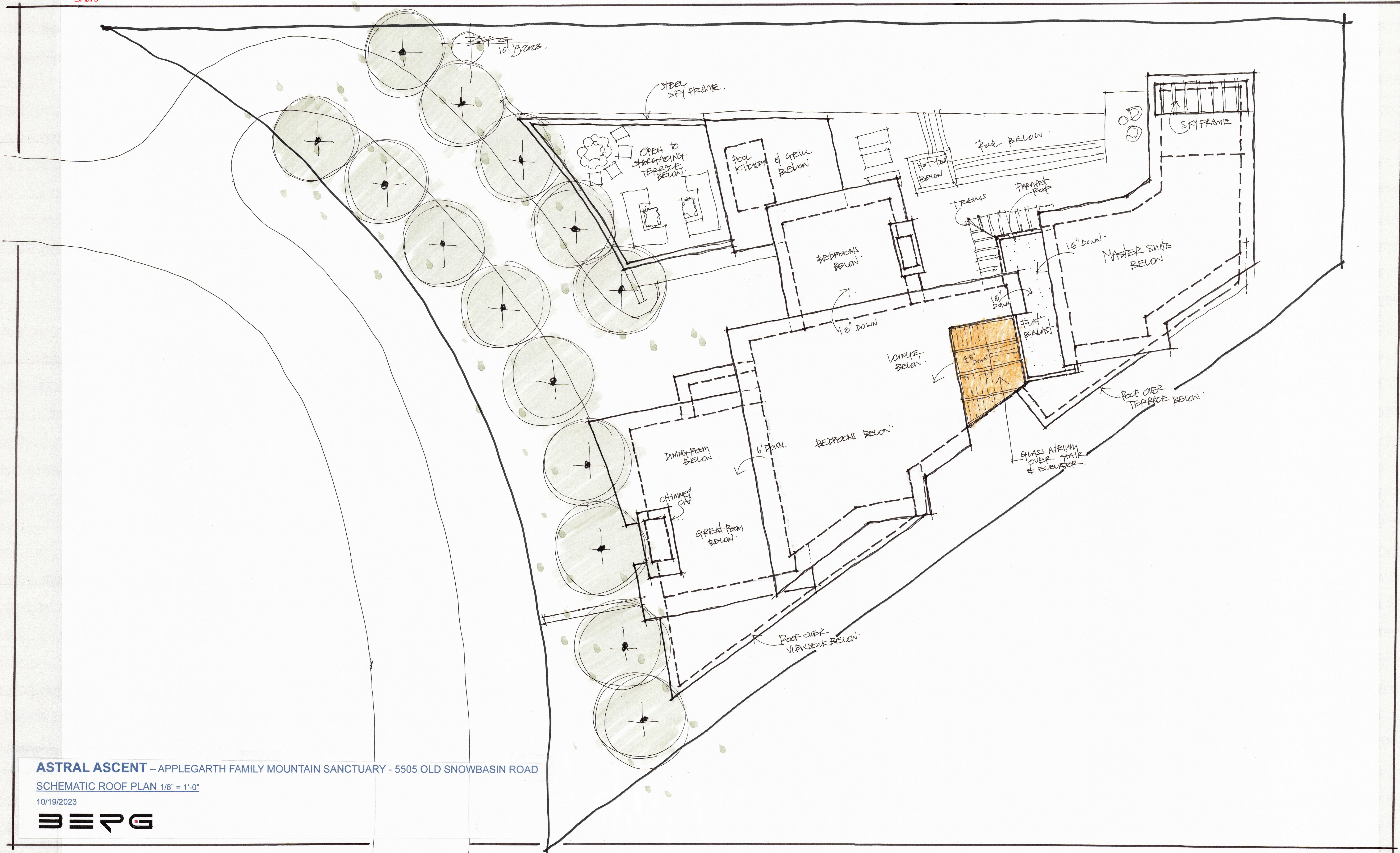
P 801.785.9998 • C 970.616.2365

tmccue@maglebyconstruction.com

ASTRAL ASCENT - APPLGARTH FAMILY MOUNTAIN SANCTUARY - 5505 OLD SNOWBASIN ROAD

SCHEMATIC ROOF PLAN 1/8" = 1'-0"

10/19/2023





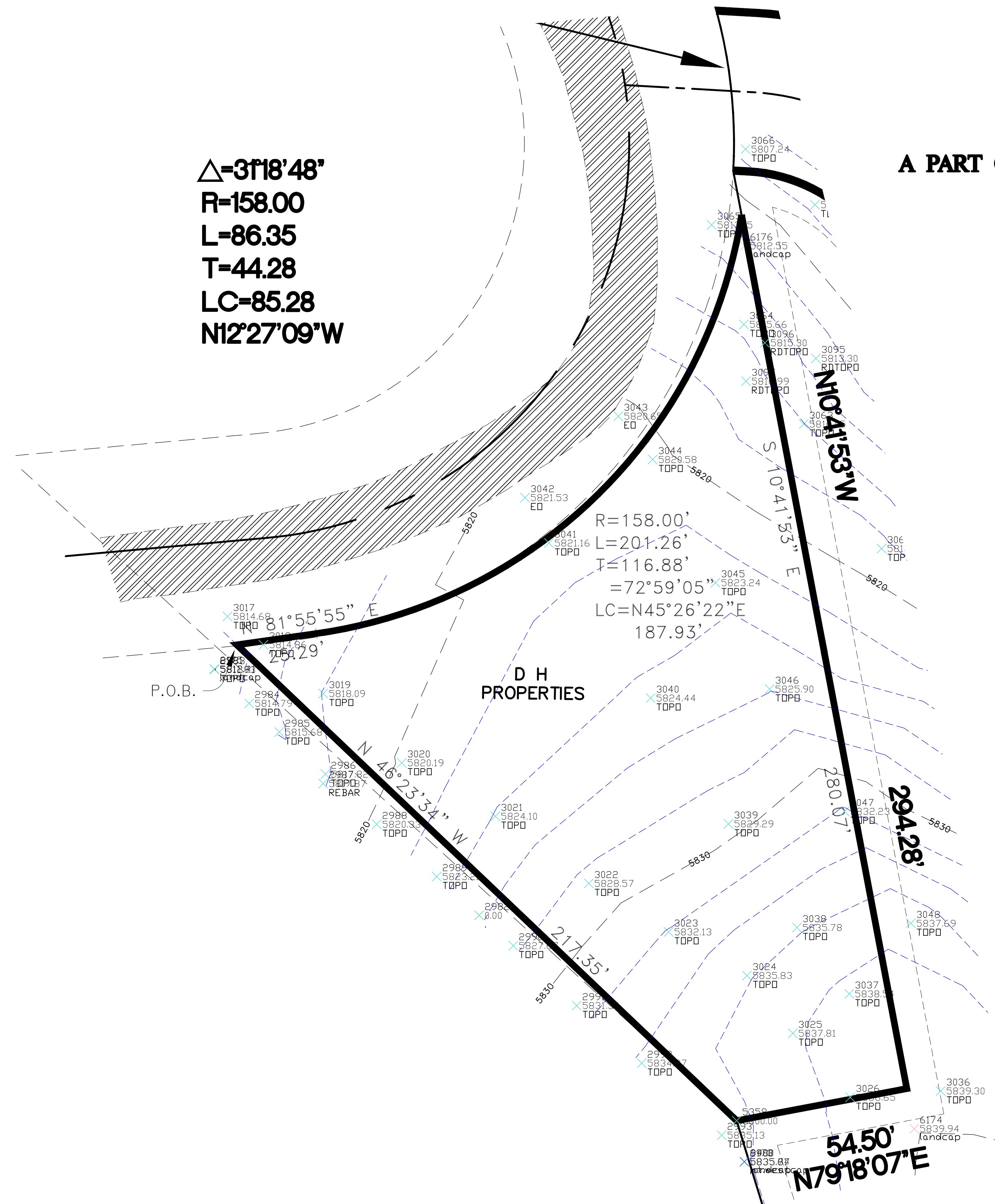


ASTRAL ASCENT - APPLGARTH FAMILY MOUNTAIN SANCTUARY - 5505 OLD SNOWBASIN ROAD

SCHEMATIC THIRD FLOOR (BEDROOMS) 1/8" = 1'-0"

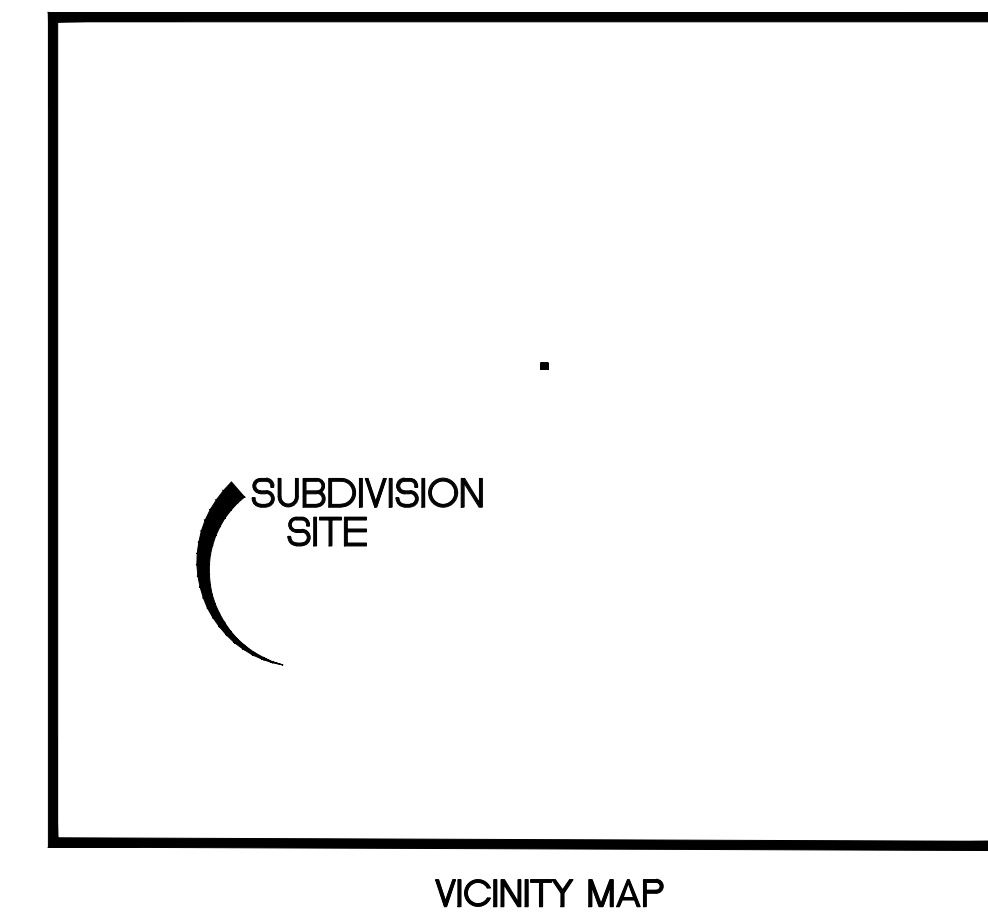
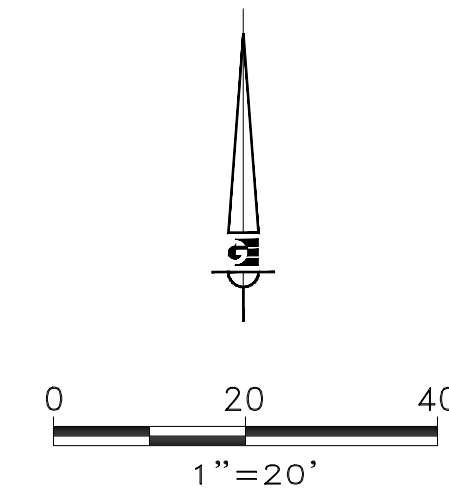
10/19/2023

BERG



PLOT PLAN EXISTING LOT (D. H. PROPERTIES, L.L.C.)

**A PART OF THE SOUTHWEST QUARTER OF SECTION 23,
T6N. R1E, SLB&M, U.S. SURVEY
WEBER COUNTY, UTAH
JULY 2005**



NOTE:
BOUNDARY LINES ARE IN QUESTION AS OF 8-26-05 ON THIS DRAWING.
LANDMARK SURVEYING TO RESOLVE FOR DEFINITE BOUNDARY.
THE TOPOGRAPHIC ELEVATION ARE GOOD AS OF 8-26-05.

NOTICE:

EXISTING UTILITIES ARE SHOWN ON PLANS FOR THE CONVENIENCE OF THE CONTRACTOR ONLY. THE CONTRACTOR IS RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES. THE ENGINEER BEARS NO RESPONSIBILITY FOR THE UTILITIES NOT SHOWN OR SHOWN INCORRECTLY.

OWNER/DEVELOPER
DH PROPERTIES DEVELOPMENT
c/o BRANDON FULLER
P.O. BOX 93
EDEN, UTAH 84310

NOTE: ALL CONSTRUCTION TO CONFORM TO WEBER COUNTY STANDARDS AND SPECIFICATIONS.

REVISONS	
DATE	DESCRIPTION

SCALE: 1"=40'

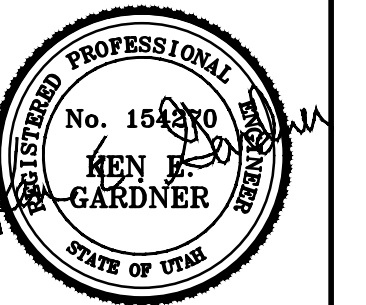
DATE: JULY 2005

DESIGN: CAO

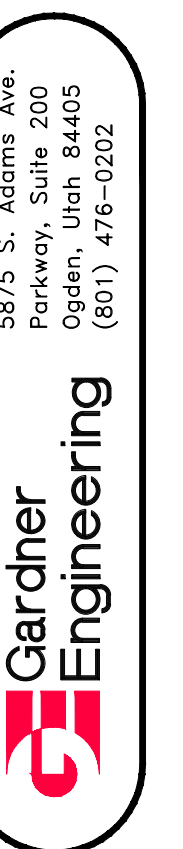
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DH PROPERTIES DEVELOPMENT
EXISTING LOT PLOT PLAN
WEBER COUNTY, UTAH



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