

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL
November 18, 2014**



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF October 7, 2014

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

REGULAR AGENDA – *Discussion, possible public hearing, and possible action as outlined below*

2237 Morning Star Court – Variance request to reduce the minimum front yard setback of 20' to 10' and the minimum Front Facing garage setback of 25' to 15'.

Quasi-Judicial hearing and possible action

PL-14-02444

Planner

Astorga

1283 Deer Valley Drive – Request for variance to setback requirements in the General Commercial (GC) zoning district.

Quasi-Judicial Hearing

PL-14-02425

Planner

Boehm

ADJOURN

A majority of Board of Adjustment members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF OCTOBER 7, 2014

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Travis McGhee, Hans Fuegi, Dave Robinson, Mary Wintzer

EX OFFICIO: Thomas Eddington, Kirsten Whetstone, Polly Samuels McLean, Makena Hawley

ROLL CALL

Chair Gezelius called the meeting to order at 5:10 p.m. and noted that all Board Members were present except Jennifer Franklin who was excused.

ADOPTION OF MINUTES OF JUNE 17, 2014

Board Member Fuegi noted that he had attended the June 17th meeting but his name was not listed in the Board Member in Attendance. The attendance record should be corrected to reflect that Mr. Fuegi was present.

MOTION: Board Member Fuegi moved to Approve the minutes of June 17, 2014 as corrected. Board Member McGhee seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Chair Gezelius had confirmed with confirmed with Staff that the next Board of Adjustment meeting would be October 21, 2014. The November meeting was scheduled for November 11, 2014. The BOA was still scheduled to meet with the City Council on November 13, 2014, pending the City Council schedule. Director Eddington would notify the Board when that date is confirmed.

Director Thomas Eddington introduced Melissa Band as the new Planning Commission liaison to the Board of Adjustment.

Board Member Wintzer disclosed that she would be recusing herself from the 30 Sampson Avenue item on the agenda this evening due to an attorney/client relationship with Wade Budge, the applicant's legal counsel.

Chair Gezelius disclosed that she was a seated member of the City Council when the 30 Sampson lot was created. However, she did not believe that would present a conflict regarding the variance and she intended to participate in the discussion and vote.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

30 Sampson Avenue – Variance to section 15-2.1-5 Building Height to allow four (4) stories. (Continuation from September 23, 2014)
(Application #PL-14-02425)

Board Member Wintzer recused herself and left the meeting.

Planner Kirsten Whetstone reported that the property is located at 30 Sampson Avenue. She reviewed an exhibit on page 19 of the Staff report showing the three lot subdivision and the lot that was created in 1996. Planner Whetstone stated that before a variance can be granted, it must meet five criteria outlined in Section 15-1-9 of the LMC. Planner Whetstone had provided the criteria for review of a variance on page 22 of the Staff report. The criteria addresses 1) unreasonable hardship; 2) special circumstances attached to the property; 3) granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone; 4) The variance will not substantially affect the General Plan; 5) the spirit of the LMC is observed and substantial justice is done.

Planner Whetstone stated that the criteria look at the circumstances surrounding the property. She remarked that on this particular property the recurring theme is the distance between the street and the building pad and the narrowness of the lot where the building pad goes up the hill. The function and dimensions of the lot make it difficult to connect a garage from the street to the building pad. The applicants were proposing a tunnel to help address the problem, which the Planning Commission had reviewed with the conditional use permit. The issue is where the tunnel is connected to come up through the house, it creates four stories.

Planner Whetstone noted that the application for 30 Sampson was submitted when the LMC had a rule limiting the number of stories in a structure. If the garage was not connected, the stories of the garage and the stories of the house were added together. After significant discussion, the Chief Building Official determined that if the garage was not connected, it would be considered a separate structure. Planner Whetstone stated that since the time the application was submitted, the Planning Commission amended the LMC to address the issue of split levels and whether they would be considered individual stories. The Planning Commission amended the LMC to have a standard maximum distance of 35' feet from the lowest floor plane to the highest wall place. The LMC amendment was adopted by the City Council. She clarified that the current

standard is overall height instead of whether or not there is a connection. Planner Whetstone pointed out that the property at 30 Sampson Avenue would still not meet the maximum height standard, which speaks to the functionality of the site when the lot was created.

The Staff conducted an analysis and found that the lot qualifies for the requested variance and meets all five criteria. Findings of Fact and Conclusions of Law were included in the Staff report. Planner Whetstone commented on a design element change to put the elevator on the inside of the house rather than the outside if the variance is allowed. The Staff believed that was a better design solution. If the Board decides to grant the variance, Planner Whetstone requested that they make sure that the vertical element is connected to the house and not left on the outside. They should also require that when the house is constructed it should appear to be three stories. The Staff had added Conditions of Approval to address those requirements.

Planner Whetstone remarked that variances run with the land and the request is for a variance to override the 3-story rule that was in place when the application was submitted.

Wade Budge, representing the applicant, thanked Planner Whetstone for a good Staff report. His clients agreed with what was set forth in the report. Mr. Budge stated that his clients, Michael and Laurie Jorgensen have been Summit County residents for 16 years. They purchased the lot in 1998. Prior to the purchase, they asked if the seller would obtain a letter from the Community Development Director confirming that a home could be built on this lot, and that they could have a garage and a basement. Mr. Budge noted that the letter was referenced in the Staff report. He believed the request for the letter indicates that the Jorgensen's had been careful to do their due diligence when purchasing this lot.

Mr. Budge stated that the Jorgensen's waited for the right time to build a home and in 2012 they submitted an application. The design that went forward to the Planning Commission was for two structures. One was the main building and the other was a garage structure with an exterior elevator shaft. The primary reason for the design was an effort to comply with the maximum story limitation in the Code. Mr. Budge clarified that Michael Jorgensen is a doctor and he is friends with some of his patients. One of his friends has special needs and it is important to the Jorgensen's to make their house accessible to everyone who wants to visit their home. The elevator helps facilitate that goal. Mr. Budge remarked that the applicants proceeded with that application; however, the Planning Commission did not like the look and feel of the design and it was rejected. He pointed out that the applicants went through another process to obtain an Advisory Opinion from the State and the Opinion went in their favor. However, rather than proceeding with the same plan, the applicants worked with the Planning Staff and agreed to consider revisions to the design related to the

exterior elevator element, connector element and the garage. The intent was to improve the design to make it acceptable for everyone.

Mr. Budge explained that the current design removes the exterior component and creates a simple one-story garage. A tunnel would be buried into the hillside and the elevator would be inside the home structure. Mr. Budge pointed out that the view walking down Sampson would be a one-story garage and a home on the hill that is stepped back approximately 94 feet. Due to the tunnel, the garage and house would appear as two distinct structures but they would be connected. However, the underground connection technically makes it a four story structure under the Building Code.

Jonathan DeGray, the project architect walked through the exhibits in the Staff report. He noted that the hourglass shape of the lot and the flat pad for the garage. Mr. DeGray indicated the steep topography of the Lot and the building pad area. He reviewed the garage layout, the at-grade landscaping and outdoor space at the rear of the main structure. Mr. DeGray indicated the subterranean element that was the reason for requesting the variance. He pointed out the fourth story level that was created by the proposed connection. He indicated a closet in the circulation area of the house near the elevator and stairs that would be for storage. Mr. DeGray remarked that there the area was circulation only and there was no habitable space.

Chair Gezelius asked for the approximate length of the house. Mr. DeGray replied that it was 37feet and $\frac{3}{4}$ inches.

Mr. DeGray presented the exhibit walking through the building. The house itself is a three-story structure with bedrooms on the lower level. The uppermost level is the main level with living, dining and kitchen space. The total square footage of the home is approximately 2,996 square foot and an additional 400 square feet for the garage.

Board Member Robinson noted that the basement level was showing three windows and he assumed they were surrounded by a window well. Mr. DeGray answered yes. Mr. Robinson asked for the approximate dimension of the window well. Mr. DeGray stated that the depth is 5-feet. He had reviewed the window wells with the Building Official and the Planning Commission in terms of egress and other issues.

Chair Gezelius understood that the elevator would service all three floors of the house. Mr. DeGray replied that it would service all four levels.

Mr. DeGray reviewed the south elevation exhibits on pages 43 and 58 of the Staff report comparing the currently proposed tunnel design with the previous design. He believed the real issue was the exterior elevator and how it occupies the space on the lot. He personally thought the tunnel was more appealing. The

elevator shaft shown on page 58 was a product of having to comply with the Code as written. Mr. DeGray remarked that it would be unfortunate if they had to build it, but he believed it was buildable. He stated his preference for the scheme presented on page 43 of the Staff report.

Mr. Budge reviewed the five criteria to grant a variance and why he believed they meet all five.

The first criteria is to show a literal hardship if full compliance with the LMC is enforced. Mr. Budge believed a hardship was imposed because without the variance they would not be able to have a connection without the tower. In order to have the same connectivity that others on Sampson enjoy, they need to have the relief they were seeking this evening. Mr. Budge clarified that the variance would not provide an economic benefit to the applicant because the tunnel would be more costly than the elevator shaft. The Jorgensen's prefer this design because it is a better way to be neighborly and to make their home fit into the Old Town community. Mr. Budge remarked that the hardship created by the topography and the unique shape of the lot satisfies the criteria.

The second criteria related to special circumstances. Mr. Budge thought the Staff report did a good job describing a unique circumstance related to the topography and narrowing of the lot. He pointed out that other homes in the HRL zone have covered connections. Mr. Budge stated that another reason for granting the variance is the applicants' belief that the entire zoning code should not be changed just to accommodate their special circumstance. He pointed out that because the story limitation has already been changed in the Code, granting a variance for this property would not set a precedent for other properties.

The third criteria is whether granting the variance was essential to the enjoyment of a substantial property right. Mr. Budge believed this related to the connectivity and access issues he previously mentioned.

The fourth criteria is that the variance would not substantially affect the general plan or be contrary to the public interest. Mr. Budge noted that the Planning Commission did not like the first design because it was too much mass close to the street. Therefore, the Jorgensen's modified the plan and designed something that was in the public interest because it removes the tower and the mass and gives the appearance of two disconnected structures with landscaping. This new design mitigates the impacts and benefits the community.

The fifth criteria is to observe the spirit of the land use ordinance. Mr. Budge believed this criteria was met with the revised design because it is good for the neighbors, the neighborhood and the Jorgensen family, and it is consistent with the requirements imposed for developing in this area.

Mr. Budge understood that the Staff recommended conditioning the variance if approved. The applicants were not opposed to the conditions and they would abide by them.

Michael Jorgensen, the applicant, stated that when they purchased the lot they knew it would be a process to build. The Planning Staff has been very helpful in trying to suggest solutions. Dr. Jorgensen remarked that they were only trying to build a home for their family in a way that is aesthetically pleasing. When they purchased the lot they did so with connectivity in mind, which is why they were willing to modify the design when they found that it did not meet the LMC criteria. He pointed out that the variance to accommodate the connection was the only request. They were not asking for additional square footage and the project met all the other requirements.

Chair Gezelius opened the public hearing.

There were no comments.

Chair Gezelius closed the public hearing.

Board Member Robinson had visited the site and he agreed that it is a steep lot. Mr. Robinson stated that being on site gave him a perspective of the challenges the applicants were dealing with. He believed the criteria had been met and he supported the Staff recommendation.

Board Member Fuegi had also visited the site and he complimented Mr. DeGray for having the ability to design on a challenging lot. Mr. Fuegi did not agree with the comments that the lot was unusually steep for that area. He was surprised by the number of steep slope lots in the area that are yet to be developed. Mr. Fuegi understood the special circumstance because the application was submitted under the previous Land Management Code. However, he was hesitant to grant the variance because the height would still not comply if the application was submitted under the current Code.

Mr. Budge clarified that the main building would comply with the height, but if they were to use the ground floor of the garage as the measuring point, it would not meet the height. Planner Whetstone remarked that it was partly due to the steepness and partly the change in grade to reach the building pad because the lot is so deep.

Board Member Fuegi had concerns about setting a precedent for others with a similarly steep lot who design a similar solution. It is a good idea but it does not meet Code. He understood the dilemma the applicants faced but it was a very big precedent to set.

Chair Gezeliuss believed that the Code is sometimes insensitive to the topography of the vacant lots that are left. A reason for requesting a variance is because the lot has an unusual shape or elevation. Chair Gezeliuss stated that it was very important to have garages on this very narrow street so cars do not park on the street and it can be plowed. Chair Gezeliuss did not see it as precedent setting because each property owner has to make their case for a variance based on their own situation. She pointed out that this particular application is effected by the rules in place today, but there are existing four story homes along the street that were built under a previous Code. She preferred an underground element versus a vertical structure on the exterior. Chair Gezeliuss remarked that when the area was zoned HRL, the goal was to have single family homes as opposed to nightly rentals, duplexes or triplexes.

Board Member Fuegi read from LMC 15-2.1-6, "Development on steep slope must be environmentally sensitive to hillside areas and carefully planned to mitigate adverse effects on neighboring land and improvements consistent with the Historic Design Guidelines." He believed the challenge with this particular lot is the lack of space to stage construction. He did not believe it was possible to build the project without severely impacting the neighbors.

Chair Gezeliuss asked if it was possible to build the garage last and use that area for staging. Mr. DeGray answered yes.

Assistant City Attorney reminded the Board that once they make their decision the application goes back to the Planning Commission for a Steep Slope conditional use permit review. The Planning Commission would evaluate the application against all the criteria cited in the Land Management Code.

Board Member Fuegi still had concerns, but he was interested in hearing from his fellow Board members.

Board Member Travis McGhee stated that he knows the area very well and he understood all the points that were made this evening. He agreed with Chair Gezeliuss that the Board needs to consider the Code, but they also need to use their judgment to see if unique circumstances apply. He believed this lot was a unique circumstance and he was not worried about setting a precedent. Mr. McGhee was more concerned about having an external structure. The perceived mass is three stories and he believed the four-story issue was more of a technicality. The BOA is charged with looking at a variance and whether it meets the criteria; and based on that he could find no reason not to support the variance.

Chair Gezeliuss concurred. She felt that each of the five criteria were met with this application. She also agreed with the conditions of approval stating that the vertical circulation elevator and stairs shall be constructed within the house. Chair Gezeliuss believed this was a preferable plan and it justifies the variance.

MOTION: Board Member Robinson moved to Grant the variance for 30 Sampson Avenue as outlined by Staff, subject to the Findings of Fact, Conclusions of Law and the Conditions of Approval as outlined in the Staff report. Board Member McGhee seconded the motion.

VOTE: The motion carried 3-1. Board Member Fuegi voted against the motion.

Findings of Fact – 30 Sampson Avenue

1. The property is located at 30 Sampson Avenue.
2. The property is located within the Historic Residential Low Density (HRL) District.
3. The property is Lot 3 of the Mill Site Reservation Supplemental Amended Plat, approved by City Council on January 19, 1995 and recorded at Summit County on August 31, 1995. Plat notes restrict the size of a house (in terms of floor area) on Lot 3 to a maximum of 3,000 sf. A 400 sf allowance for a garage is allowed and basement area is not included in the house size.
4. On July 7, 2014, the owner submitted an application requesting a variance to LMC Section 15-2.1-5 (A) to allow a total of four stories for the proposed single family house due to the odd hour glass lot configuration, steepness of the lot, and approximately forty feet (40') of grade change between the street level and the main building pad area.
5. On August 5, 2014, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property. Legal notice was published in the Park Record on August 2, 2014, according to requirements of the Code.
6. The Lot is currently vacant and the owner desires to construct a single family house on the lot.
7. The unreasonable hardship is the configuration and steepness of the Lot. The lot has an odd hour glass shape and includes a large grade difference between the lot area at the street and upper building pad area for the main house. The shape of the lot limits the location of the building pad for both the garage and the main house due to required setbacks from the property line. At the waist of the hourglass shape the lot is twenty-one feet with required side yard setbacks of five feet on either side. The property lines also are at an angle to the street further constraining the development area.
8. The difference in grade between the street and the main building pad is approximately 40'. This grade change combined with the odd shape of the lot creates a hardship in complying with the three story limitation of the zone.
9. The applicant is requesting four stories to allow an underground connection between the garage at the street level and the main house at the upper level, allowing the vertical circulation (elevator or stairs) to be incorporated within the main house.
10. The alleged hardship is a function of the hour glass shape of the lot and the steepness of the lot. The elevation difference between the street level and the

main building pad is approximately forty (40') feet.

11.The hour glass shape and required setbacks create an unreasonable hardship that is not necessary to carry out the general purposes of the LMC.

12.The shape of the lot requires the main house to be located at the upper portion of the lot in order to meet the required building setbacks.

13.The alleged hardship is located on the Property for which the variance is sought.

14.The hardship comes from circumstances of this Property and not from conditions that are general to the neighborhood and the hardship is not self-imposed or economic.

15.Granted of the variance allows to the applicant the same rights as other property owners in the district.

16.There are special circumstances attached to the Property that do not apply to other Properties These special circumstances include the odd hour glass shape of the platted lot as well as the steepness of the slope and difference in elevation, approximately forty feet (40'), from the street level to the main building pad.

17.These special circumstance relate to the hardship complained of that deprives the property of privileges granted to other property in the same zone.

18.The property is subject to the same LMC requirements regarding building height, story, and setbacks as other similar sized property in the district and due to the hardships as described above, the applicant complains that the Property is deprived of privileges granted to other Properties in the HRL zone.

19.Granted of the variance allows essential enjoyment of a substantial Property right as possessed by other property owners in the HRL zone.

20.Granted the variance allows the property owner to construct an historically compatible garage at the street, construct an underground connection through the narrow portion of the lot, and incorporate an internal vertical circulation (elevator or stairs) within the main house, in order to utilize the main portion of the lot for the house where the required building setbacks can be met.

21.Granted of the variance will not substantially affect the General Plan and will not be contrary to the public interest as the internal connection is underground and not visible from the street. The perceived massing is three stories.

22.The variance allows construction of an underground tunnel connection between the garage at the street and the main house at the upper portion of the lot that is approximately forty feet (40') higher. The variance allows an elevator, or other vertical circulation system, to be incorporated within the house resulting in a more historically consistent design and allows removal of an awkward external disconnected elevator element mid lot. The variance allows a design with an internal connection that meets the Historic District Design Guidelines, while the design with the disconnected exterior elevator structure is awkward and is not a typical design in the historic district.

23. Granted the variance will allow the applicant to comply with the spirit of the LMC and to construct a more compatible design, utilize the main portion of the lot and provide an internal, underground, non-visible connection from the garage to the main house.

24. The spirit of the Land Management Code is observed and substantial justice is done in that the variances allow the owner to provide an internal connection to the main house that is protected from the weather, is compatible with the Historic Design Guidelines, and allows utilization of the main portion of the lot that is approximately forty (40') feet above the grade at the street.

25. One of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. The applicant will be required to go through the HDDR process for compatibility with the adopted Historic District Design Guidelines prior to the construction of the house.

Conclusions of Law – 30 Sampson Avenue

1. Literal enforcement of the Historic Residential Low Density (HRL) District requirements for this property regarding the number of allowable stories causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC §15-10-9, have been met.

Conditions of Approval – 30 Sampson Avenue

1. The vertical circulation elevator and stairs shall be constructed within the house.
2. The house shall be constructed to appear as three (3) stories on the exterior.

Order

1. A variance to LMC Section 15-2.1-5 (A) is hereby granted to allow up to four stories on Lot 3 of the Mill- Site Reservation Supplemental Amended Plat.
2. The variance runs with the land.

Chair Gezelius adjourned the meeting at 5:53 p.m.

Approved by _____
Ruth Gezelius, Chair

Board of Adjustment
October 7, 2014

Board of Adjustment

Board of Adjustments Staff Report



PLANNING DEPARTMENT

Application #: PL-14-02444
Subject: 2237 Morning Star Drive
Author: Francisco J. Astorga, Planner
Date: October 21, 2014
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment review the proposed variance, conduct a public hearing, and consider denying a variance requested by the applicant at 2237 Morning Star Drive to reduce the minimum front yard setback of twenty feet (20') to ten feet (10') and the minimum front facing garage setback of twenty-five feet (25') to fifteen feet (15') to build a single-family dwelling. Staff's recommendation is based on the Findings of Facts and Conclusions of Law as outlined in this report.

This Staff report reflects the professional recommendation of the Planning Department. The Board of Adjustment, as an independent body, may consider the recommendation but should make its decisions independently.

Description

Applicant: Allred Horizons LLC represented by Michael Allred
Location: 2237 Morning Star Drive
Zoning: Single Family (SF) District
Adjacent Land Uses: Residential single-family dwellings
Reason for Review: Variances require Board of Adjustment Approval

Proposal

The property owner requests to reduce the minimum front yard setback of twenty feet (20') to ten feet (10') and the minimum Front Facing garage setback of twenty-five feet (25') to fifteen feet (15') to build a single-family dwelling. See Exhibit A – Applicant's Narrative and Exhibit E – Proposed Site Plan.

Purpose

The purpose of the Single Family SF District is to:

- A. maintain existing predominately Single Family detached residential neighborhoods,
- B. allow for Single Family Development Compatible with existing Developments,
- C. maintain the character of mountain resort neighborhoods with Compatible residential design; and
- D. require Streetscape design that minimizes impacts on existing residents and reduces architectural impacts of the automobile.

Background

This property is Lot 8 of Thaynes Canyon Subdivision No. 3. See Exhibit C – Thaynes Canyon Subdivision No. 3. The lot is currently vacant. The lot is one of the last one to be built Morning Star Drive. The Land Management Code (LMC) states the following regarding front and rear yard setbacks in the SF District:

15-2.11-3 Lot and Site Requirements.

(C) Front Yard. *The minimum Front Yard is twenty feet (20'). New Front Facing Garages for Single Family and Duplex Dwellings must be at least twenty-five feet (25') from the Front Lot Line.*

[...]

(E) Rear Yard. *The minimum Rear Yard is fifteen feet (15').*

The rear property line borders the Park City Golf Course. The site also has a stream somewhat parallel to the rear property line. The Subdivision Plat shows a 15' wide non-exclusive utilities easement parallel to the rear property line on all the lots that border the golf course, Lot 1 - Lot 9. Snyderville Basin Water Reclamation District (SBWRD) has a sewer line on the fifteen foot (15') easement. The sewer line is 12.8 feet from the property line, or 2.20 feet from the edge of the easement line/rear yard setback line.

SBWRD recommends that the property owner build the house at least ten feet (10') from the existing sewer line. See Exhibit D – SBWRD's Letter dated 07.16.2014. This is a recommendation and not a request, or condition of approval. The property owner request to build a single-family dwelling on this lot with the additional ten feet (10') based on SBWRD's recommendation. The applicant requests a variance to reduce the front yard setback by ten feet (10') to be able to shift the house towards the front of the lot so that the building area is not compromised by the recommendation. See Exhibit E – Proposed Site Plan.

In terms of building pad area, Staff prepared the following chart below that estimates each area regarding applicable front yard standards. The size of the building pad is the lot area minus setbacks areas.

Building Pad	Approximate Area
Existing conditions	5,600 square feet
Existing conditions following the recommendation	4,770 square feet
Net difference	830 square feet

Analysis

The property is located in the SF District and is subject to LMC § 15-2.11-3 Lot and Site Requirements, subsections B – F regarding front and rear yard setback areas. The applicant is requesting this variance to address issues related to the SBWRD recommendation. The applicant indicated the following in their updated write up:

The north side of Lot #8 is reduced in depth by the shape of the cul-de-sac at Morningstar Court. The length of the north property line is 81.39 ft. By comparison, the north property lines for Lots 4 -7 are:

Lot 4 - 171.68 ft.

Lot 5 - 159.54 ft.

Lot 6- 137.72 ft.

Lot 7- 105.63 ft.

The average length is 143.60 ft.

The result of the cul-de-sac sweeping through¹ the north side of Lot #8 is that the building pad is pushed back to the rear of the property. This condition is a unique circumstance ONLY on Lot #8.

Lot #8 has a 15 ft. PUE that runs parallel to the rear property line. 15 ft. is also the required rear yard setback. There is a stream approximately in the center of the 15 ft PUE. Because of this stream, the sewer line was installed along the west boundary of the PUE. The attached letter from Synderville Basin Sewer official Brian Atwood recommends that I do not build closer than 10 ft to the sewer line. This recommendation makes our effective rear yard setback 25 ft. instead of 15 ft. With the building pad being forced to the rear of the lot, this additional setback request is an unusual hardship. This additional setback also reduces my allowable building pad by approximately 1000 sq. ft. This is a significant loss of my property rights.

In order to grant the requested variance to the aforementioned code sections, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 are met. The Applicant bears the burden of proving that all of the conditions justifying a variance have been met.

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship the BOA 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. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

The applicant wrote:

The combination of circumstances created by the cul-de-sac reducing the depth of the lot and the request of the sewer department to increase the rear yard

setback to 25 ft. is a condition that is specific to Lot #8 and represents an unreasonable hardship. This combination of conditions is unique to Lot #8. These unique conditions meet the proof of hardship required by Subsection 15-10-9(C)(1).

Staff does not agree that the variance request meets Criteria 1. The nature of the request comes from a recommendation and not actual literal enforcement of the LMC or other review authorities. The applicant has the ability to build to the public utility easement line/rear yard area setback line or incorporate a design that meets all standard setbacks and also follows SBWRD's recommendation, i.e., a home with an approximately 4,770 square foot building pad. Also, Staff finds that the alleged hardship by the applicant is self-imposed, as the site allows for a single-family dwelling with or without following SBWRD's recommendation.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

The applicant wrote:

To mitigate the negative effects of this combination of circumstances, I am asking for a front yard variance. I am requesting a front yard setback of 10 ft for a side facing garage and 15 ft for a front facing garage.

[...]

My request for this variance is supported by special conditions that exist in this zone. The Land Management Code already provides for reduced front yard setbacks in this zone. Thaynes Canyon Subdivision I and II have designated lots with special conditions that permit a reduced front yard setback of 10/15 ft. See 15-2.11-3D. In this subsection, Item (E) "to preserve open space" does support this variance request. Permitting the reduced front yard setback enhances the open space related to the stream and the golf course at the rear of Lot #8.

There are special conditions on Morningstar Drive where reduced front yard setbacks have been granted. 2251 Morningstar, Lot #7, has been permitted a front yard setback of 9.3 ft. for the garage. 2200 Morningstar Drive has been permitted a front yard set back of 16ft. for a front facing garage. To deprive me the privileges granted properties directly next door (Lot #7) and across the street (Lot #11) as well as properties in the same zone (Thaynes I and II) would be a hardship.

I am including with this application a preliminary design for a home on Lot #8. With a front yard setback of 15 ft for the garage, it is still possible to achieve setbacks of 25ft to 35ft for a large percentage of the home. The average front yard setback for this home design is 21.3 ft. The home design can be very pleasing and certainly in harmony with the spirit of the Land Management Code.

Staff does not disagree that there are challenges in this site dealing with the location of sewer line within the platted utility easement and the correlating rear yard setback area and the minor stream, as well as the given the shape of the lot, which is typical for lots in a cul-de-sac. Because the applicant is able to build a single-family dwelling without seeking a variance by building up to the fifteen foot (15') public utility easement/rear property setback line, which contain the sewer line, Staff does not find special circumstances that relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone.

The LMC provides for reduced front yard setback in Thaynes Canyon Subdivision I and II, specifically for designated lots with special conditions that permit a reduced front yard setbacks to preserve open space. The LMC does not authorize this same exception on specifically designated lots in Thaynes Canyon III.

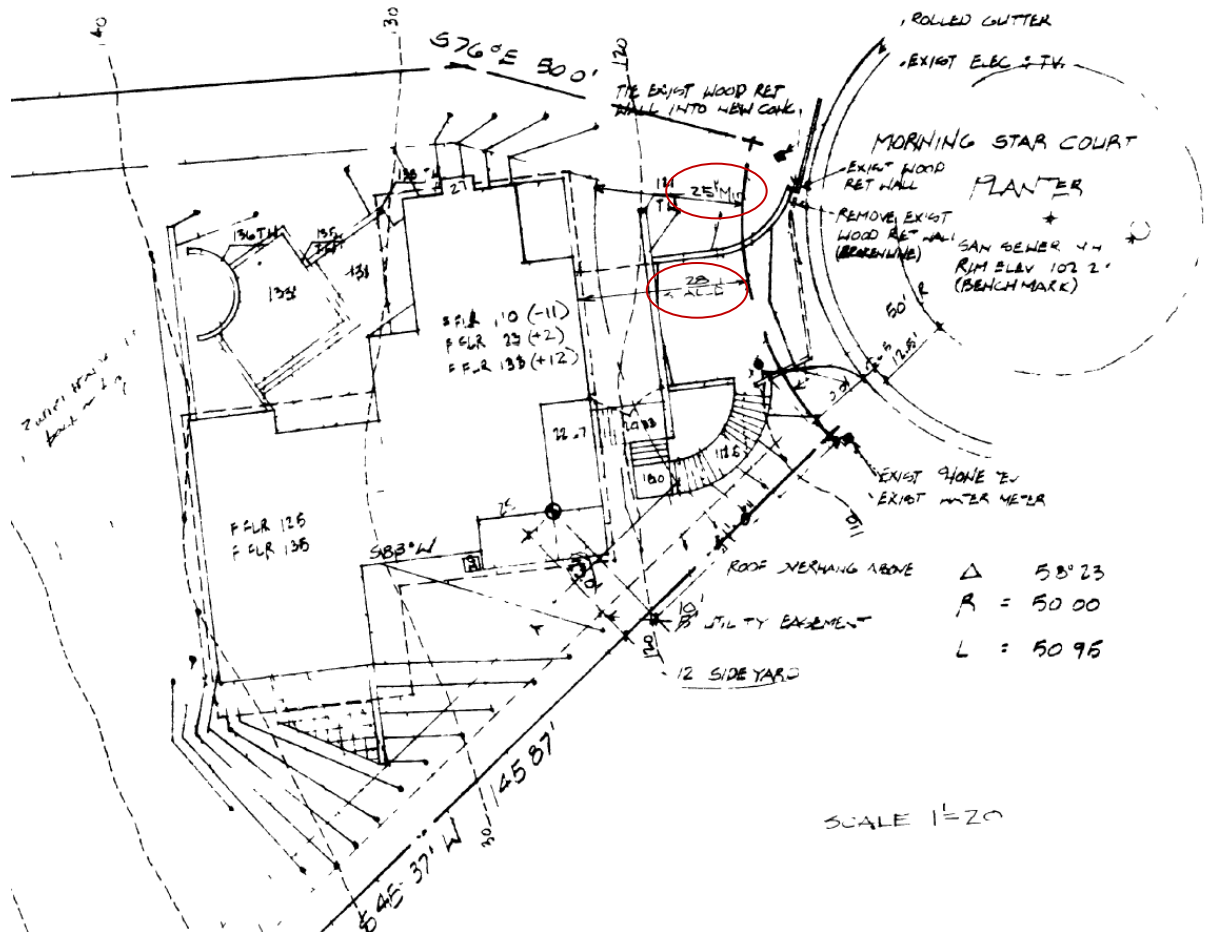
Staff was able to find the following information regarding the two mentioned sites on the applicant's write up:

- 2251 Morning Star Drive. This site is the neighbor to the north. The site contains a single-family dwelling. According to the submitted existing site plan, Exhibit B, this site contains a detached car garage that is 9.3 feet from the front property line. Staff has been unable to find any records from the Building and Planning Department that would authorize such improvement. Summit County records indicate that the house was built in 1978.

Staff was able to locate an Application to the Board of Adjustment for a front yard setback variance to a distance of twenty feet (20') from 1978. See Exhibit F – 2251 Morning Star Drive 1978 Variance Application. Staff was unable to find any record showing the approval of such variance. The variance did not mention any hardships regarding the sewer line/stream, etc. Assuming that this variance was granted there is no explanation showing why the garage setback nine feet (9') from the front property line.

As indicated on LMC § 15-10-8(B): [...] The Applicant or the City may present any information as might be reasonably required by the Board in evaluating the request. At this time this is the only available information that the City has been able to gather. No information has been presented by the applicant regarding this alleged variance. It is not uncommon to not be able to find these records dating back to the 1970s.

- 2200 Morningstar Drive. This site is across the street and slightly to the west. Staff was able to locate building plans for this house that show that the house is built to the 25' minimum front yard standard:



Regarding the fact that the cul-de-sac design of the subdivision pushed the north side of the lot back to the rear property line, this is traditionally found in most subdivision with cul-de-sac, it is simply the result of providing for fire truck turn around access and is not unique.

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

The applicant wrote:

The granting of this variance is essential to enjoyment of the substantial property rights possessed by other properties in this zone. This variance will restore the size of the entitled building pad and allow me to comply with the additional setback requested.

Staff does not find that the variance is essential to the enjoyment of a substantial property right by other properties in the same zone. Staff finds that the essential property right possessed by other in the same zone can be accommodated by building a the allowed single-family dwelling right up to the fifteen foot (15') public utility easement/rear property setback area or by providing another design that follows the SBWRD's recommended clearance from the sewer line. The impacts can be mitigated as the site is not governed by the SBWRD's recommendation and can be solved with another design.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

Staff does not find the variance would substantially affect the General Plan or will be contrary to the public interest.

Criteria 5. The spirit of the Land Management Code is observed and substantial justice done.

Staff does not find that the spirit of the LMC would be observed since the variance being sought of reducing the front yard setback is not created by an LMC restrictions but a recommendation. Staff finds that the Variance Request is not a proper solution to the challenge which is the location of the sewer line. Staff finds that if the applicant does not desire to build so close to it, they can simply come up with another design.

In order for the BOA to grant a variance all five (5) criteria must be met. Staff does not find that specific variance criteria are met and therefore recommends that the BOA does not grant the variance.

Process

If the variance request is not approved, the applicant can continue to move forward by submitting a building permit through the Building Department utilizing the standard setbacks outlined in the LMC for front and rear yards. The applicant may choose to build up to the rear setback line or they may request to build a different design that does not fully occupy the entire building envelope and yet move forward with SBWRD's recommendation. Staff review of Building Permit is not publicly noticed unless appealed. The denial/approval of a variance request by the Board of Adjustments constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13.

Department Review

This application has gone through an interdepartmental review. No further issues were brought up at the time.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The applicant can move forward with a building permit through the Building Department utilizing standard front and rear yard setbacks outlined in the LMC. The applicant may choose to build up to the rear setback line or they may request to build a different design that does not fully occupy the entire building envelope and yet move forward with SBWRD's recommendation.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance, conduct a public hearing, and consider denying a variance requested by the applicant at 2237 Morning Star Drive to reduce the minimum front yard setback of twenty feet (20') to ten feet (10') and the minimum front facing garage setback of twenty-five feet (25') to fifteen feet (15') to build a single-family dwelling. Staff's recommendation is based on the Findings of Facts and Conclusions of Law as outlined in this report.

Findings of Fact

1. The site is located at 2237 Morning Star Drive
2. This property is Lot 8 of Thaynes Canyon Subdivision No. 3.
3. The lot is currently vacant.
4. The Land Management Code (LMC) states the following regarding front and rear yard setbacks:
 - a. Front Yard: The minimum Front Yard is twenty feet (20'). New Front Facing Garages for Single Family and Duplex Dwellings must be at least twenty-five feet (25') from the Front Lot Line.
 - b. Rear Yard: The minimum Rear Yard is fifteen feet (15').
5. The applicant request to reduce the minimum front yard setback of twenty feet (20') to ten feet (10') and the minimum front facing garage setback of twenty-five feet (25') to fifteen feet (15') to build a single-family dwelling.
6. The rear property line borders the Park City Golf Course.
7. The site has a stream somewhat parallel to the rear property line.
8. The Subdivision Plat shows a 15' wide non-exclusive utilities easement parallel to the rear property line on all the lots that border the golf course, Lot 1 - Lot 9.
9. Snyderville Basin Water Reclamation District (SBWRD) has a sewer line on the 15' easement.
10. The sewer line is 12.8 feet from the property line, or 2.20 feet from the edge of the easement line/rear yard setback line.
11. SBWRD recommends that the property owner build the house at least ten feet (10') from the existing sewer line. This is a recommendation and not a request, or condition of approval.
12. The estimated building pad of the lot is approximately 5,600 square feet.
13. The estimated building pad of the lot with the additional ten foot (10') setback from the sewer line is approximately 4,770 square feet.
14. In order to grant the requested variance, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 are met. The Applicant bears the burden of proving that all of the conditions justifying a variance have been met.

15. The nature of the request comes from a recommendation and not actual literal enforcement of the LMC or other review authorities regarding permits.
16. The applicant has the ability to build right to the public utility easement line/rear yard area setback line or incorporate a design that meets all standard setbacks and also follows SBWRD's recommendation.
17. The alleged hardship by the applicant is self-imposed, as the site allows for a single-family dwelling with or without following SBWRD's recommendation.
18. There are challenges in this site dealing with the location of sewer line and stream within the platted utility easement and the correlating rear yard setback area and given the shape of the lot, which is typical for lots near a cul-de-sac.
19. Because the applicant is able to build a single-family dwelling without seeking a variance by building up to the fifteen foot (15') public utility easement/rear property setback line, which contain the sewer line, there are no special circumstances that relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone.
20. The LMC provides for reduced front yard setback in Thaynes Canyon Subdivision I and II, specifically for designated lots with special conditions that permit a reduced front yard setbacks to preserve open space.
21. The LMC does not authorize this same exception on specifically designated lots in Thaynes Canyon III.
22. Essential property right possessed by other in the same zone can be accommodated by building a the allowed single-family dwelling right up to the fifteen foot (15') public utility easement/rear property setback area or by providing another design that follows the SBWRD's recommended clearance from the sewer line. The impacts can be mitigated as the site is not governed by the SBWRD's recommendation and can be solved with another design.
23. The variance would not substantially affect the General Plan or would it be contrary to the public interest.

Conclusions of Law

1. Literal enforcement of the Land Management Code for this property would not cause an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are no special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance not is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.
5. The spirit of the Land Management Code is not observed.

Order

1. The variance to LMC § 15-2.11-3(C) & (E) reducing the minimum front yard setback of twenty feet (20') to ten feet (10') and the minimum front facing garage setback of twenty-five (25') to fifteen feet (15') to build a single-family dwelling--is hereby denied.

Exhibits

- Exhibit A – Applicant's Narrative
- Exhibit B – Existing Site Plan
- Exhibit C – Thaynes Canyon Subdivision No. 3
- Exhibit D – SBWRD's Letter dated 07.16.2014
- Exhibit E – Proposed Site Plan
- Exhibit F – 2251 Morning Star Drive 1978 Variance Application
- Exhibit G – 2200 Morning Star Drive 1984 Building Permit Plans
- Exhibit H – Vicinity Map

Exhibit A – Applicant's Narrative

July 28, 2014

To: Park City Planning/Board of Adjustments

From: Allred Horizons/Mike Allred representing

Thank you for the opportunity to request a variance on the front yard setback at 2237 Morningstar Drive, Lot #8 Thaynes Canyon #3.

The north side of Lot #8 is reduced in depth by the shape of the cul-de-sac at Morningstar Court. The length of the north property line is 81.39 ft. By comparison, the north property lines for Lots 4 -7 are:

Lot 4 - 171.68 ft.

Lot 5 - 159.54 ft.

Lot 6 - 137.72 ft.

Lot 7 - 105.63 ft.

The average length is 143.60 ft.

The result of the cul-de-sac sweeping through the north side of Lot #8 is that the building pad is pushed back to the rear of the property. This condition is a unique circumstance ONLY on Lot #8.

Lot #8 has a 15 ft. PUE that runs parallel to the rear property line. 15 ft. is also the required rear yard setback. There is a stream approximately in the center of the 15 ft PUE. Because of this stream, the sewer line was installed along the west boundary of the PUE. The attached letter from Synderville Basin Sewer official Brian Atwood recommends that I do not build closer than 10 ft to the sewer line. This recommendation makes our effective rear yard setback 25 ft. instead of 15 ft. With the building pad being forced to the rear of the lot, this additional setback request is an unusual hardship. This additional setback also reduces my allowable building pad by approximately 1000 sq.ft. This is a significant loss of my property rights.

The combination of circumstances created by the cul-de-sac reducing the depth of the lot and the request of the sewer department to increase the rear yard set back to 25 ft. is a condition that is specific to Lot #8 and represents an unreasonable hardship. This combination of conditions is unique to Lot #8. These unique conditions meet the proof of hardship required by Subsection 15-10-9(C)(1).

To mitigate the negative effects of this combination of circumstances, I am asking for a front yard variance. I am requesting a front yard setback of 10 ft for a side facing garage and 15 ft for a front facing garage.



The granting of this variance is essential to enjoyment of the substantial property rights possessed by other properties in this zone. This variance will restore the size of the entitled building pad and allow me to comply with the additional setback requested.

My request for this variance is supported by special conditions that exist in this zone. The Land Management Code already provides for reduced front yard setbacks in this zone. Thaynes Canyon Subdivision I and II have designated lots with special conditions that permit a reduced front yard setback of 10/15 ft. See 15-2.11-3D. In this subsection, Item (E) "to preserve open space" does support this variance request. Permitting the reduced front yard setback enhances the open space related to the stream and the golf course at the rear of Lot #8.

There are special conditions on Morningstar Drive where reduced front yard setbacks have been granted. 2251 Morningstar, Lot #7, has been permitted a front yard setback of 9.3 ft. for the garage. 2200 Morningstar Drive has been permitted a front yard set back of 16 ft. for a front facing garage. To deprive me the privileges granted properties directly next door (Lot #7) and across the street (Lot #11) as well as properties in the same zone (Thaynes I and II) would be a hardship.

I am including with this application a preliminary design for a home on Lot #8. With a front yard setback of 15 ft for the garage, it is still possible to achieve set backs of 25 ft to 35 ft for a large percentage of the home. The average front yard setback for this home design is 21.3 ft. The home design can be very pleasing and certainly in harmony with the spirit of the Land Management Code.

In conclusion, the literal enforcement of the Land Management code would create an unreasonable hardship. Literal enforcement is not necessary to carry out the general purposes of the code. Unique conditions exist on Lot #8 that do not exist on other properties in this zone. Having access to the entitled building pad is a right attached to Lot #8 and a right enjoyed by other properties in this zone. The granting of this variance will allow me to follow the recommendations of the sewer district without compromising my property rights.

Thank you for the opportunity to request this variance. Please contact me at any time if you have further questions.

Respectfully,



Mike Allred, Manager

Allred Horizons LLC

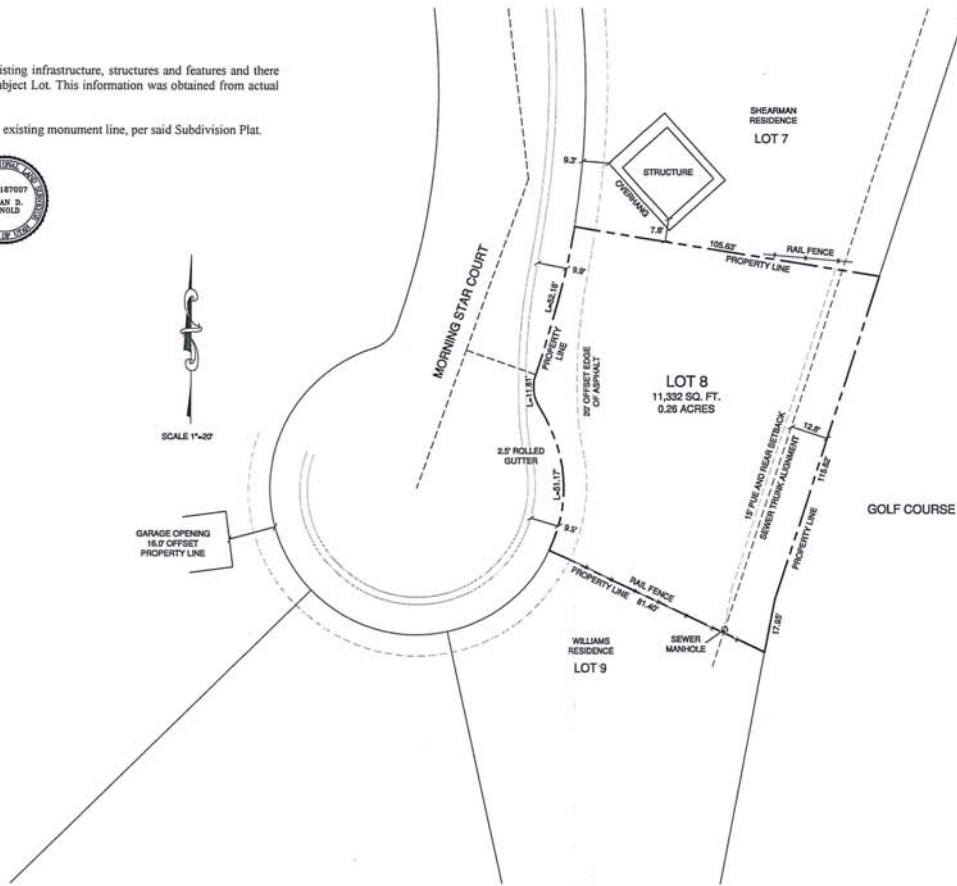
Exhibit B – Existing Site Plan

LOT 8 THAYNES CANYON SUBDIVISION NO. 3
Located in Park City, Summit County, Utah

NARRATIVE

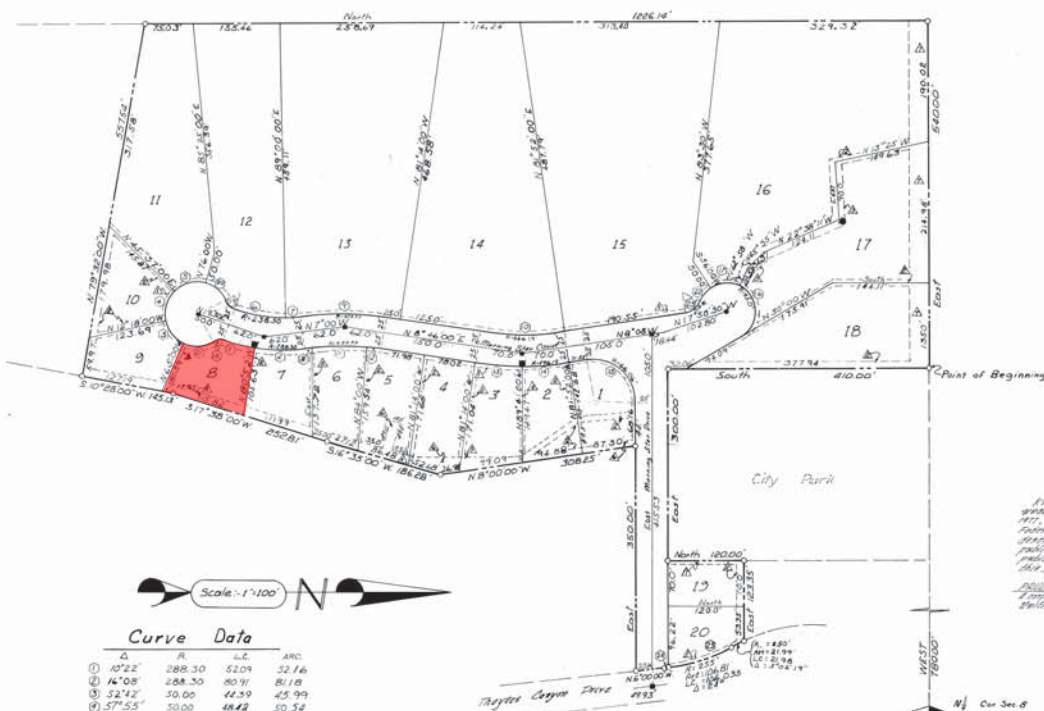
The purpose of this exhibit is to show existing infrastructure, structures and features and there relationship to the property lines of the subject Lot. This information was obtained from actual field measurements.

The Basis of Bearing for this exhibit is the existing monument line, per said Subdivision Plat.



08-08-14		1" = 20'		BMA/C010400	
DATE	SCALE	DATE	SCALE	DATE	SCALE
EXHIBIT A – PLANNING DEPT. MIKE ALLRED PARK CITY, UTAH					
PSOMAS 4179 S. Riverhood Road, Suite 200 Salt Lake City, Utah 84123 (801) 270-5777 (801) 270-5782 (FAX)					
DESIGNED	BDA	DRAWN	BDA	CHECKED	BDA
SHEET					
1					
1					

Exhibit C – Thaynes Canyon Subdivision No. 3



Curve Data				
	θ	ϕ	ψ	
①	10°12'	288.30	80.91	22.16
②	14°08'	268.30	80.91	81.18
③	52°42'	50.00	44.39	45.99
④	37°55'	50.00	48.82	50.54
⑤	38°25'	50.00	48.81	50.35
⑥	38°25'	236.50	88.77	51.54
⑦	14°00'	238.50	24.94	24.94
⑧	1°14'00"	422.77	9.12	9.12
⑨	45°46'	472.77	12.64	130.10
⑩	45°46'	446.19	11.53	131.41
⑪	13°37'44"	472.77	85.84	85.84
⑫	2°54'06"	472.77	21.41	21.41
⑬	8°27'	476.19	73.11	73.18
⑭	8°27'	476.19	73.11	73.18
⑮	78°08'0"	476.19	73.11	118.54
⑯	12°05'58"	45.00	79.08	76.58
⑰	61°02'	45.00	45.70	47.91
⑱	53°04'42"	12.325	11.20	11.61
㉑	53°04'46"	12.325	11.20	11.61
㉒	53°04'46"	12.325	11.20	11.61
㉓	58°36'42"	30.00	40.95	51.15
㉔	53°33'8"	30.00	26.04	26.416
㉕	53°30'30"	31.29	31.05	32.49
㉖	53°30'30"	31.29	31.05	32.49
㉗	53°30'30"	31.29	31.05	32.49
㉘	53°30'30"	31.29	31.05	32.49
㉙	53°30'30"	31.29	31.05	32.49
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㊶	53°30'30"	31.29	31.05	32.49
㊷	53°30'30"	31.29	31.05	32.49
㊸	53°30'30"	31.29	31.05	32.49
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㊼	53°30'30"	31.29	31.05	32.49
㊽	53°30'30"	31.29	31.05	32.49
㊾	53°30'30"	31.29	31.05	32.49
㊿	53°30'30"	31.29	31.05	32.49

Lot Area
in Acres

Note:

- Safety Measurements (to be installed)
- Fire Hydrants (proposed)
 - ▲ 5 Safe non-exclusive utilities easement as shown
 - ▲ 10 Safe non-exclusive utilities easement as shown
 - ▲ 10 Safe non-exclusive utilities and road easement as shown
 - ▲ 15 Safe non-exclusive utilities easement as shown
 - ▲ Utilities easement varying in width as shown
 - ▲ Spring easement
 - ▲ 30 Wide Non-exclusive utilities and drainage easement

OWNERS DEDICATION

Know all men by these presents that I the undersigned owner of the herein described tract of land having caused same to be subdivided into lots and streets to be hereafter known as Thayne Canyon Subdivision No.3 do hereby dedicate for perpetual use of the Public all parcels of land shown on this plat as intended for public use. In witness where of I have hereunto set my hand this 27th Day of July A.D. 1977.

ROYAL STREET LAND COMPANY
A Utah Corporation

J. Warren King
J. Warren King - President

SURVEYORS CERTIFICATE

I, James G. West, do hereby certify that I am a registered Land Surveyor and that I hold certificate No. 3082 as prescribed under the laws of the State of Utah, and I have made a survey of the following described property:

Beginning at a point west along the section line 263977 feet to the North Quarter Corner; thence West along the section line 780.0 feet from the Northeast corner of section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian and running thence West 123.0 feet to a point on the section line; thence North 80.0 feet; thence East 123.0 feet to a point on the Western right of way line of Thuyens Canyon Drive, said point being on a curve to the left, the radius point of which is N 65° 02' 20" E, 550.00 feet; thence North 10.00 feet; thence East 10.00 feet; thence North 10.00 feet; thence East 10.00 feet of a 255.00 foot radius curve to the right, thence Southeastly along the arc of said curve and Westerly right of way line 106.88 feet to a point of tangency, thence S 60° 02' E, along the arc of a 255.00 foot radius curve to the right, thence North 10.00 feet; thence East 10.00 feet 308.25 feet; thence S 16° 35' W, 186.28 feet; thence S 17° 38' W, 252.81 feet; thence S 10° 28' W, 145.13 feet; thence N 79° 32' W, 557.54 feet; thence North N 22° 14' E, along the arc of a 255.00 foot radius curve to the right, thence North 10.00 feet to a point of beginning.

James G. West
License No. 3082

July 27, 1977

Thaynes Canyon Subdivision No3

A subdivision located in the North 1/2 of Section 8,
Township 2 South, Range 4 East, Salt Lake Base
& Meridian

Owners Dedication

Know all men by these presents that I the undersigned together
witness that certain Seal and a Trust made the 21 day of September
1917, made between the Signers of this Instrument and
Franklin D. Roosevelt and Elizabeth Roosevelt the parties at that
described on this page, do hereby declare for purposes herein the
public act herein set forth shown on this page as referenced for
public use. In witness whereof I have hereunto set my hand
this 3rd day of October A.D. 1917

PRUDENTIAL FEDERAL SAVINGS AND LOAN
A cooperative chartered under the laws of the
State of New Jersey

Acknowledgment

State of Fla.
County of Duval
On this 3rd day of October 1911
personally appeared before me the undersigned notary public for and in said State and County, John L. White and after being duly sworn, depose and say that he is now residing at "Hawthorne" Spring Street, Lane, a corporation chartered under the laws of the State of America, that he signed the above declaration freely and voluntarily in full and total compliance with the purposes thereof mentioned and

Thane Halberstam
Volery Public my commitment going 7-15-80

ACKNOWLEDGMENT

State of Utah
County of Summit
On this 27th Day of July, A.D. 1977 personally
appeared before me the undersigned notary public in
and for said State and County, J. Warren King, who
after being duly sworn, acknowledge to me that he
is the President of Royal Street Land Company
A Utah Corporation, that he signed the owners
dedication freely and voluntarily for and in behalf
of said corporation for the purposes therein mentioned
and that said corporation executed the same.

Barrie M. Colman My commission expires May 1, 1992
Notary Public Residing in Summit County, Utah

Records consecutively herewith: A declaration of productive
warrants for Deputy Captain Johnnie W. S.
Date _____ Time _____ Bad _____ Page _____

Prepared By:
J.J. Johnson & Associates
Civil Engineering Planning Surveying
1700 Park Avenue P.O. Box 1661
Park City, Utah 84060

City Planning Commission
Approved & Accepted by the Park City
Planning Commission this 22 Day of July
A.D. 1977

Bernis Watts
Chairman

Engineers Certificate
Approved & Accepted by the Park City
Engineering Department this 26 Day
of January A.D. 1977

John A. Proffitt
Deputy City Engineer

Approval as to Form
Approved as to Form this 3rd Day
of October A.D. 1977

61-50000 A.D. 1977

Rich Coleman

Post Office Address

Certificate of Attest
Attest this 7th Day of Dec
A.D. 1877

Linda W. Heatham

Council Approval & Acceptance
Approved & Accepted by the Park City
Council this 31st Day of October, A.D. 1973

Leon Uriarte

No. 19234 Recorded
State of Utah, County of Summit, Recorded and
Filed 28 of the month of April 1924

Date 5/17/97 Time

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Easement Ltr.pdf

1 of 2



SNYDERVILLE BASIN

WATER RECLAMATION DISTRICT

2800 HOMESTEAD RD, PARK CITY, UT 84096

WWW.SBWRD.ORG

T 435-640-7993

F 435-640-8040

July 16, 2014

Mr. Mike Allred
964 South 200 West, Suite 1
Salt Lake City, UT 84101

Subject: Thaynes Canyon No. 3 Subdivision, Lot 8
2237 Morning Star Drive

Dear Mr. Allred,

You have requested input from the Snyderville Basin Water Reclamation District regarding the public sewer lines and easements that affect the referenced lot.

The attached exhibit indicates the location of the public sewer lines (green lines with arrows) and sewer manholes (red dots with numbers) along the southerly and easterly lot lines. The widths of the easements that cover these lines are 10' and 15', respectively, as indicated on the subdivision plat.

The public sewer line along the easterly lot line is located near the inside edge of the 15' wide easement. The line was apparently constructed at this location in 1978 in order to avoid compromising an existing irrigation/drainage ditch that runs along the property.

We understand that you plan to construct a house on the lot, and would like to construct the house up to the easement line. Constructing the house to the easement line may compromise the integrity of the sewer line because of the proximity to the line, and would restrict access to the line for future maintenance and operation. Relocating the line closer to the property line is not possible due to the conflicting irrigation/drainage ditch. We therefore recommend that the house be constructed no closer than 10' from the existing sewer line.

Please let me know if you have any other questions.

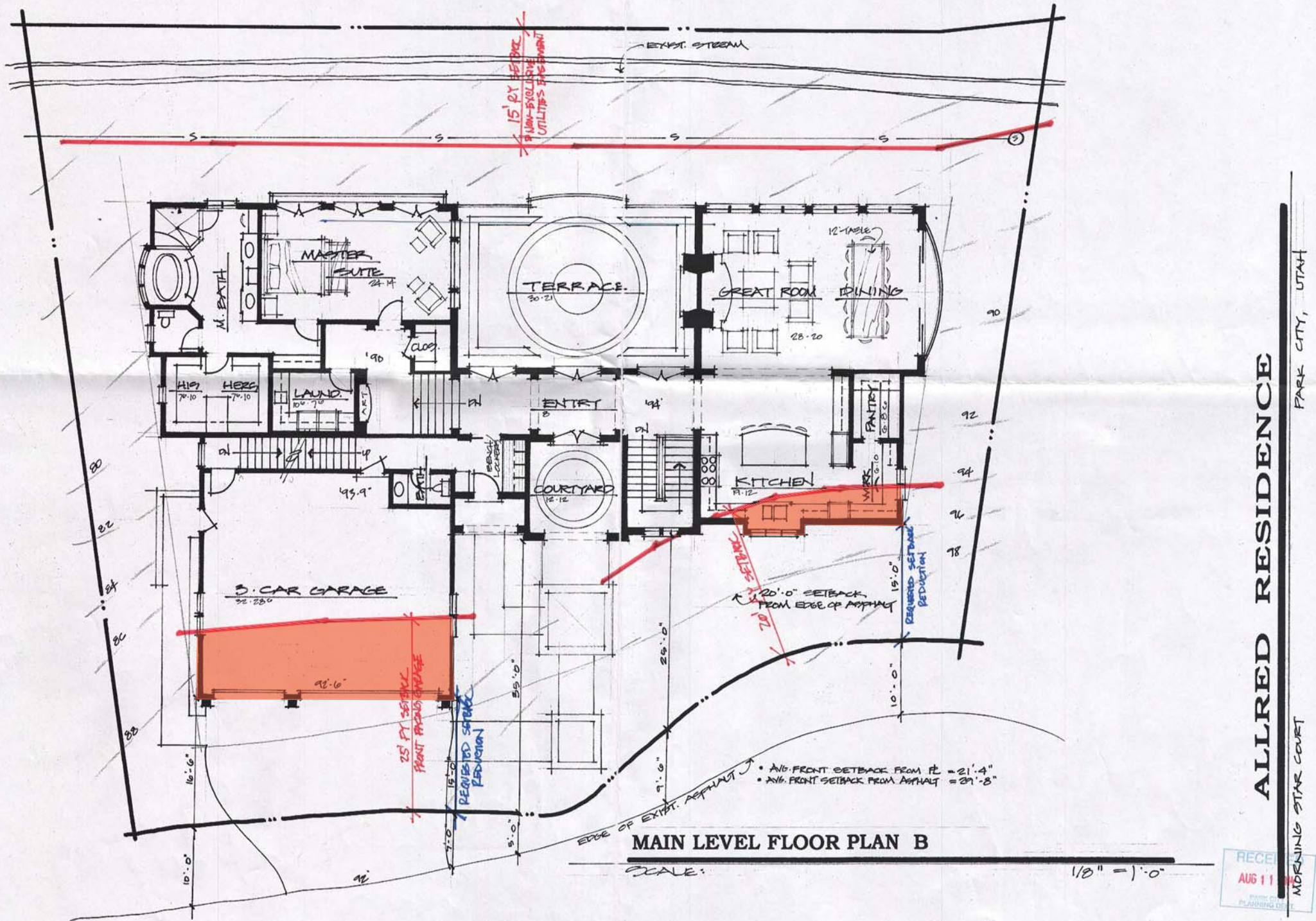
Sincerely,

Bryan D. Atwood, P.E.
District Engineer

Attachment

Cc: Park City Planning Dept.
Project File





APPLICATION TO BOARD OF ADJUSTMENT

I, undersigned Frederick R. Birch respectfully makes
(Print or type name of Owner-applicant)

Application for Front yard setback variance to a distance of twenty (20) feet.

The property is located at Park City, Utah

Said property is legally described as follows:

Thaynes Canyon III, Lot #7

ANSWERS TO THE FOLLOWING QUESTION MUST BE COMPLETE AND IN DETAIL. A VARIANCE CANNOT BE GRANTED UNDER SEC. 67-5-3 OF THE ZONING ORDINANCE UNLESS THE FOLLOWING THREE FACTORS ARE FOUND TO EXIST:

Show what special circumstances attached to the property covered by the application do not generally apply to other properties in the same land use zone.

Zoning requires me to set the garage back twenty-five (25) feet from the street. If I am required to set back 25 feet, my house will require a much larger increase in the foundation to reach street level.

Our grade is steeper than most of the other properties.

Show that because of said special circumstances, property covered by application is deprived of privileges possessed by other properties in the same land use zone.

The twenty-five (25) foot setback would force me to construct a 25 foot elevated driveway because of the steep slope of the property. Most of the other properties do not have this problem.

Show that granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same land use zone. (If your property can reasonably be developed within its land use zone, you are probably not being deprived of the enjoyment of any substantial property right. You must show that you cannot make any reasonable use of your property if you comply with the provisions of the Zoning Ordinance.

If I am forced to create a twenty-five (25) foot elevated driveway by the Zoning Ordinance, the house will block a large portion of the view from our neighbors on each side.

The twenty-five (25) foot driveway makes any reasonable use of the property extremely difficult because of the high foundation, and it places the house too close to the golf course. The generally why this variance will not adversely affect the health, safety, morals and general welfare of person residing or working in the vicinity of your property.

OWNERS AFFIDAVIT

STATE OF UTAH)

County of SUMMIT)

ss.

I, (WE) Frederick R. and Gale C. Birch

, being first sworn, say that the following list of names and addresses represent all the property owners within 150' of each exterior boundary of property located at Thaynes Canyon III, Lot #7

Please see attached list.

I (WE) further say that the information on the attached maps and property owners' list, all plans, drawings, photographs and sketches attached hereto and made a part of this application and all answers contained herein are in all respect true and correct to the best of my (our) knowledge and belief.*

Frederick R. Birch
Gale C. Birch

Signature of Owner-Applicant

18232 Hillcrest Circle

Mailing Address

Villa Park, CALIF.

City

714 - 637 - 7867

Phone No.

SUBSCRIBED AND SWORN to before me this 19th day of July, 1978

C. Wayne Matthews
NOTARY PUBLIC

My commission expires:

5-31-82

GIVE NAME AND ADDRESS OF ANY PERSON YOU HAVE AUTHORIZED TO REPRESENT YOU AT THE BOARD OF ADJUSTMENT HEARING OF THIS APPLICATION:

BOARD OF ADJUSTMENT MEETING
August 21, 1978
Minutes

The Board of Adjustment Meeting was called to order by Chairman Jim Patterson at 7:15 p.m. Other Board Members present were Burnis Watts and Steve Morgan. Mr. Gene Florence had asked to be excused from the meeting, and Mr. John Newland was absent. Planning Director David John Preece and Secretary Bobbie Anselmi were also in attendance, along with proponents Fred and Gail Birch, and Jack J. Johnson, adjacent property owner.

The Minutes of the June 22, 1978, Board of Adjustment Meeting were reviewed. Board Member Burnis Watts made a motion to approve the Minutes as presented. Board Member Steve Morgan seconded the motion and it passed.

Chairman Patterson indicated that there was a procedural question regarding the voting power of the Chairman of the Board of Adjustment. He stated according to the State Statutes, there is a need for three (3) concurring votes to approve or overrule a variance, and that there was a policy that the Chairman could not vote unless there was a tie.

Board Member Watts indicated he felt that there was not a quorum in attendance to make a decision, however a hearing was needed because other lots in the subdivision were also effected and careful review of this request was necessary. He stated that under Roberts Rules of Order they could reconvene if they held this meeting open.

Chairman Patterson asked Mr. Fred Birch to present his request to the members that were present.

Mr. Birch indicated that since he had submitted his application, the construction of the street had been completed. He observed that Lots 7, 8 and 9 have drastic drop offs. On his lot, with the construction of a driveway, if a twenty five (25) foot setback is required, it would require construction of a retaining wall. If a variance is granted, He does not need to have as large a garage. He indicated they had decided to move the utility room from the garage area which would allow them to get their cars into the garage with lesser footage, however, the street is not fifty (50) feet wide as indicated on the Master Plan, which requires off-street parking, and that requires the residents to have twenty (20) foot driveway allowances.

Mr. Birch stated that the topography of the entire mountain had changed drastically and that it is in no way the same as when the plans were drawn for his home.

Mrs. Birch indicated that if the twenty-five (25) foot front yard setback is complied with, the house would then violate the twenty-eight (28) foot height restrictions.

Board Member Watts asked Mr. Jack Johnson, owner of Lot 9, if he anticipated having problems when constructing on his lot. Mr. Johnson indicated he did not plan to build on that lot, however, with proper design, there would

Board of Adjustment Meeting Minutes
August 21, 1978

be no problem with construction on his lot.

Chairman Patterson then asked Mr. Birch if indeed e had undue hardship that was so great that a variance must be given, or if he was requesting the variance so that he could construct something that was more appealing to him. Mr. Birch indicated his home could be constructed without a variance, however, it would be rather uneven.

In response to the question regarding the width of the roads, Mr. Jack Johnson indicated that the right-of-way line is fifty (50) feet, but the paved roadway only had to be thirty (30) feet wide.

Mr. Birch indicated that since that is the case, his problem is modified because he did not realize his property line was ten feet from the curbline. He indicated he must have a thirty five (35) foot setback now, which makes it impossible for him to construct a home at all.

Board Member Watts indicated that there was an even larger problem than they had anticipated because there is possibly three (3) to five (5) feet of fill in the right-of-way.

Board Member Watts recommended to Mr. and Mrs. Birch that they need to try to resolve their problem with Mr. Warren King, the developer, by determining what the original agreement was, compared to what they have received. He also suggested that they contact the other property owners adjacent to them who also have problems, and possibly apply for a Group Variance Request.

Mr. Birch indicated that there was only one or two other property owners with a problem similar to theirs. He indicated that he and his architect would be meeting with Mr. King the next morning, and that possibly all problems could be resolved at that time without the need for a Variance Request.

Board Member Watts encouraged the Birch's to keep the Planning Director informed of their activities so that they could be included on the agenda of the August 30th meeting, if necessary.

Chairman Patterson discussed with the other Board Members the problem that is posed to the Board when members are absent, indicating that it is not reasonable to hold meetings without a quorum. Planning Director Preece was asked to contact the members that have been absent more than two consecutive times to stress the importance of attendance.

The Public Hearing ended at 8:00 p.m.

/ba

Please add the following ~~again~~ updated information to our request for a ~~Variance~~

(1) We have made the ~~garage~~ 6' shorter & now only require a 5' ~~variance~~

(2) If we are required to extend the driveway to a distance of 35' from the curb the main part of the home will be over ~~the~~^a 12' deep ~~abandoned~~ creek bed.

The engineer for the Thayer Canyon III advises us that the old creek will be filled but not compacted to the 95 PSI ~~minimum~~^{minimum} therefore requiring us to build a 14' ~~greater~~ foundation to support the log home

Please be assured that we have done everything to meet the set back and I feel this plan will make the home very attractive

August 24, 1978

Mr. J. Warren King
Thaynes Canyon Homeowners Association No. 3
Architectural Committee
P. O. Box 889
Parck City, Utah 84060

Dear Mr. King:

I have made the corrections you are asking for and submit the following information:

1. Enclosed please find a set of specifications including exterior materials.
2. The landscaping plan is on the plans cover sheet.
3. Please accept these close up pictures of a brand new log home being built in Salt Lake by my contractor. The logs, exterior finish, windows, decking and deck railing will be just like our home.
4. I will assure you the house will not exceed the 28 feet height as defined in section 6.5.
5. The only change I am still asking for is the set back variance. In an attempt to compromise I have made our garage 6 feet shorter and now only require a 5 feet variance on the one corner of the driveway. I cannot set the main part of the house any deeper on the lot because the backfill being placed in the old creek bed will not be compacted to the 95 PSI minimum and this will not support the house foundation.

Sincerely,

Fred R. Birch

Mr. & Mrs. Fred R. Birch

cc: Robert W. Wells
Jack J. Johnson



P. O. BOX 1480
PARK CITY, UTAH 84060
PHONE (801) 649-9321

July 21, 1978

Mr. Jim Patterson
P. O. Box 485
Park City, Utah 84060

Dear Jim:

I have received a Variance Request for a front yard setback from Frederick R. and Gale C. Birch. The variance pertains to Lot 7 in Thaynes Canyon III. Enclosed is a copy of the Variance Request.

I would appreciate it if you could schedule a meeting with the adjacent property owners and advise me of the date so that proper notices can be sent.

Thank you for your assistance.

Sincerely,

David John Preece
Planning Director

/ba

encl.

THAYNES CANYON HOMEOWNER'S ASSOCIATION NO. 3
ARCHITECTURAL COMMITTEE
P.O. BOX 889
Park City, Utah 84060

August 7, 1978

Mr. & Mrs. Fred R. Birch
18232 Hillcrest Circle
Villa Park, CA 92667

Dear Mr. & Mrs. Birch,

The architectural committee of the Thaynes Canyon Homeowner's Association No. 3 reviewed the plans that you submitted for your proposed new home to be constructed on Lot No. 7 in the Thaynes Canyon Subdivision No. 3, Park City, Utah and the committee has the following comments:

1. The committee does not have the authority to grant a setback variance of less than 25 feet from the front lot line since there does not appear to be an unreasonable hardship or burden when the 25 foot setback line is complied with. The committee, therefore, must reject your proposed 15 foot setback.

2. The plans that you submitted to the Architectural Committee are incomplete. We are unable to make a final determination as to approval or disapproval until the plans submitted to the Committee contain the following information:

- a. A landscaping plan as required by Section 6.4 of the Declaration of Protective Covenants;
- b. Exterior color samples must be submitted;
- c. The exterior materials must be designated on the plans;
- d. There must be a complete set of specifications in conjunction with the plans.

3. Section 6.5 of the Declaration of Protective Covenants restrict the height of any building to be not greater than 28 feet as such height is defined in said Section 6.5. The rear elevation of your proposed home appears from the plans to be very close to exceeding this height restriction. The Committee will require your written assurance that the above referred to height restriction will not be exceeded.

If you have any questions, please feel free to call on me.

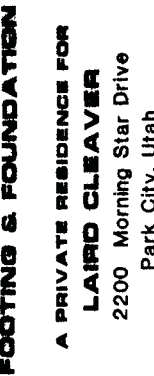
Sincerely,

Warren King
J. Warren King,
Chairman

cc: Robert W. Wells
Jack J. Johnson ✓

reynolds & mammen
architects

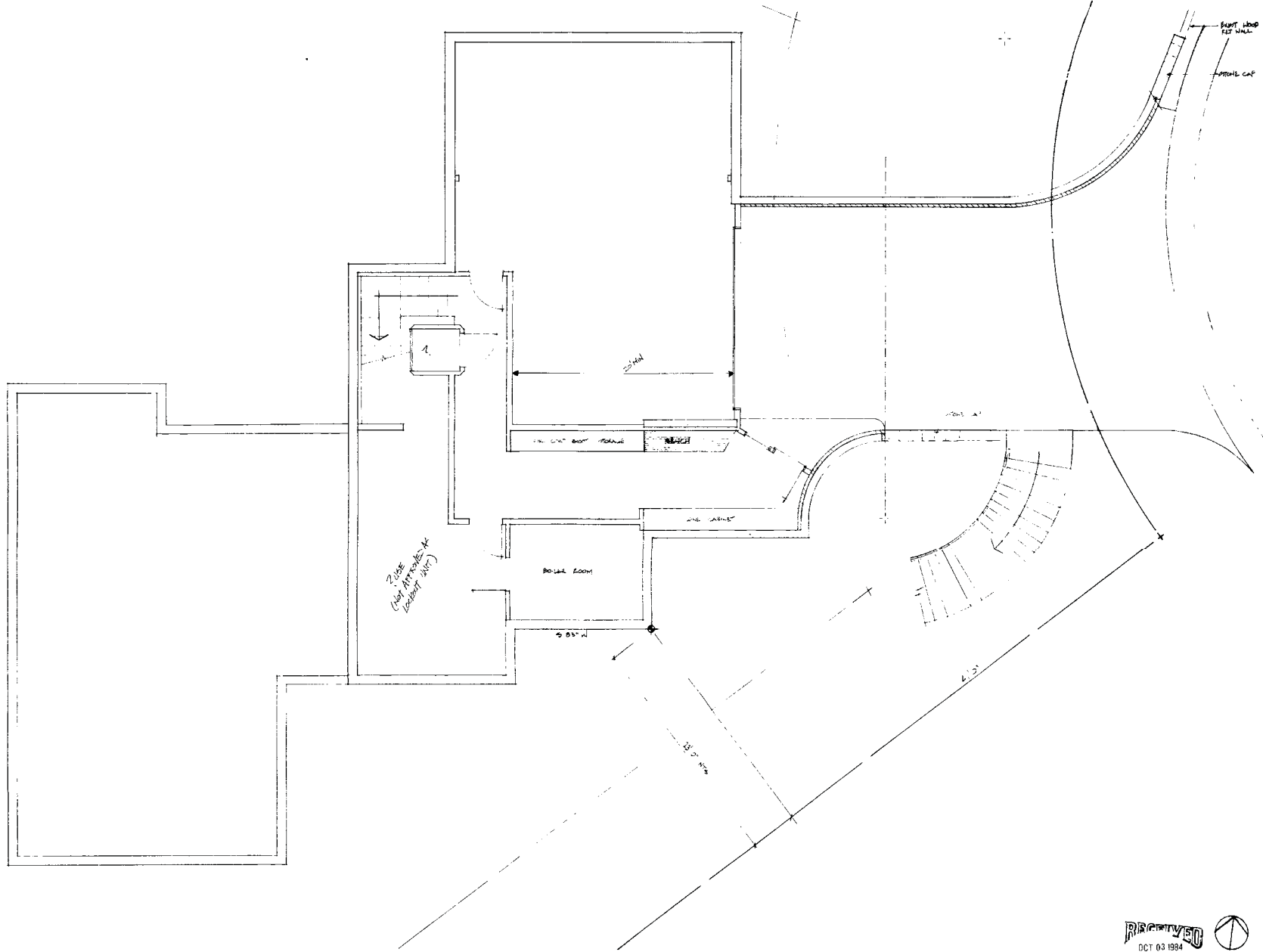
P.O. Box 1720 Park City, Utah 84060 (407) 649-8868



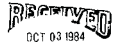
Cleaver Residence
TITLE SHEET & PLOT PLAN

RECEIVED
OCT 03 1984
PARK CITY CORPORATION

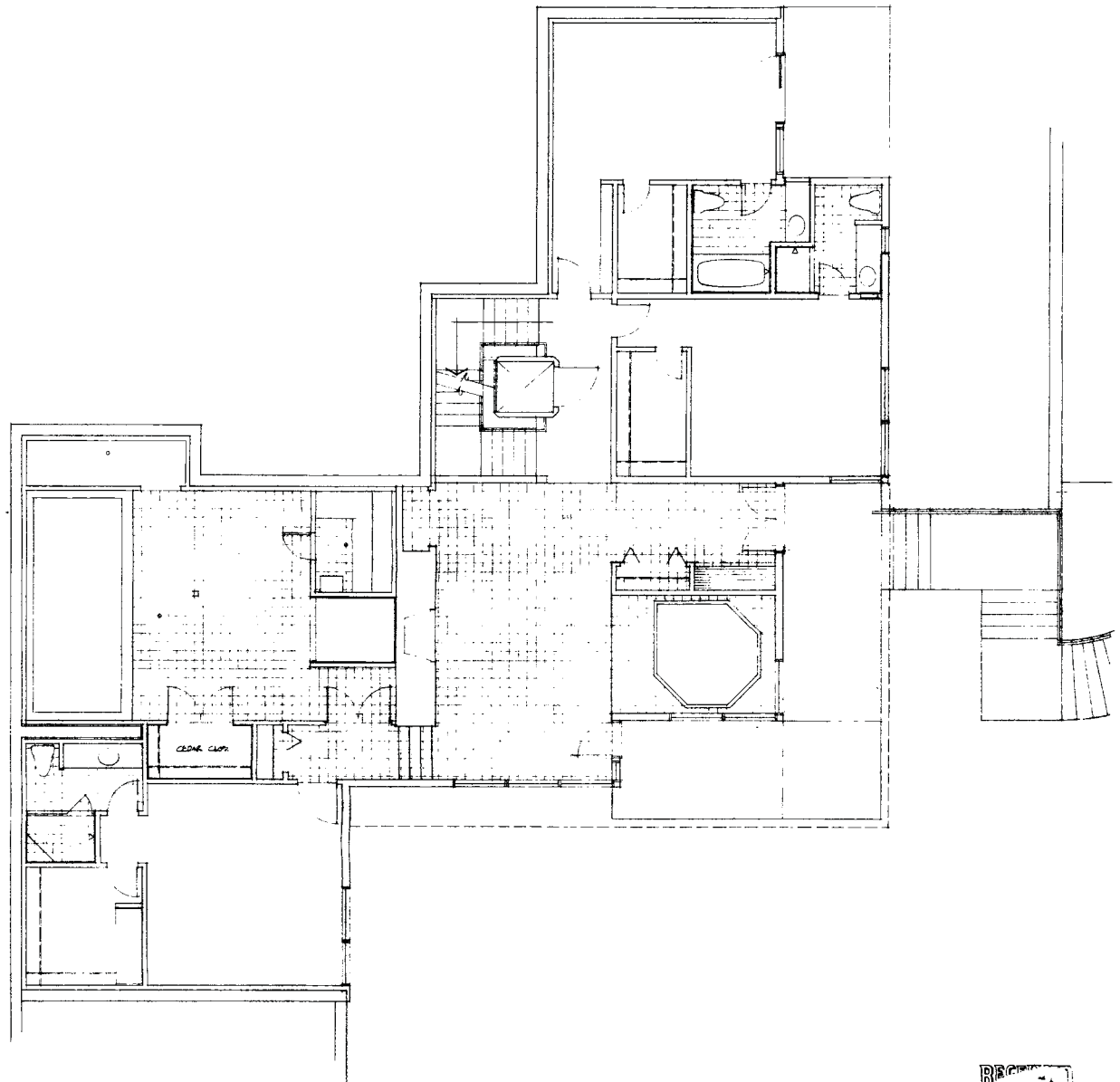
38 of 60



Garage Level Plan


 OCT 03 1984
 PAUL CHILCOFF, P.E.
 1/4" = 1'-0"

Chaver Residence GARAGE LEVEL PLAN	PRELIMINARY
A1	



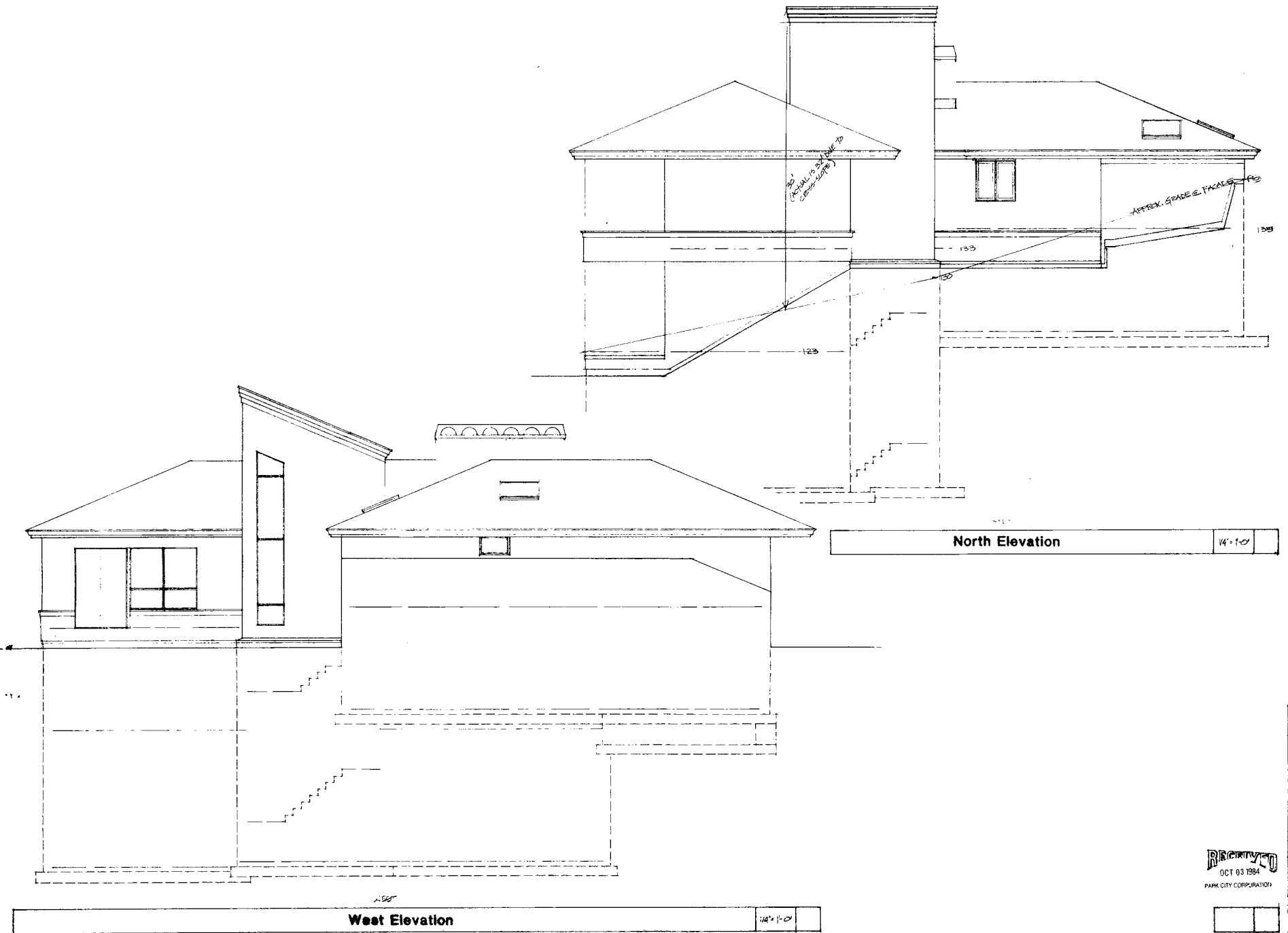
First Floor Plan

RECEIVED
OCT 03 1984
PARK CITY CORPORATION

1/4" = 1'-0"

Cleaver Residence FIRST FLOOR PLAN PRELIMINARY	
	[Signature/Stamp]





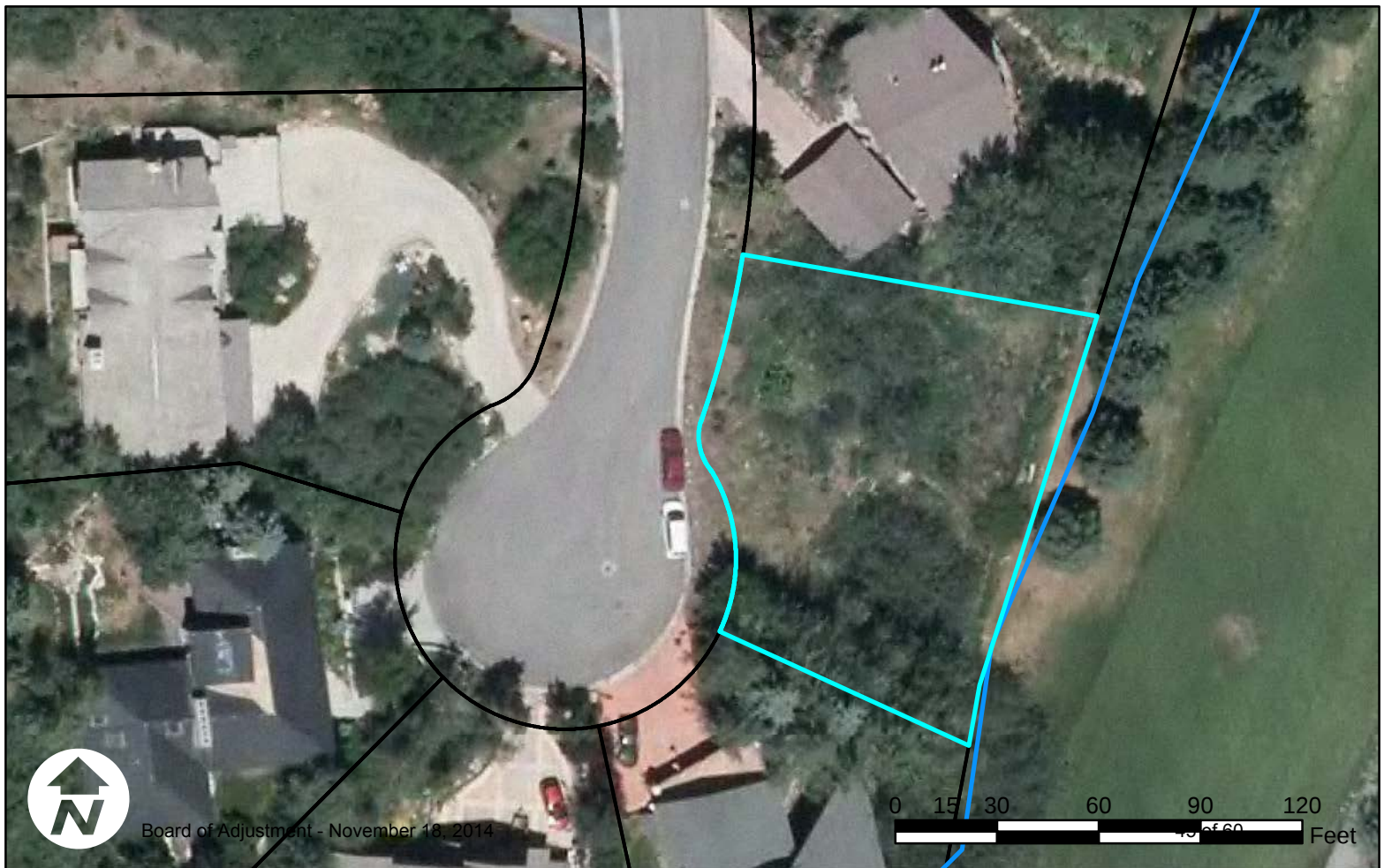
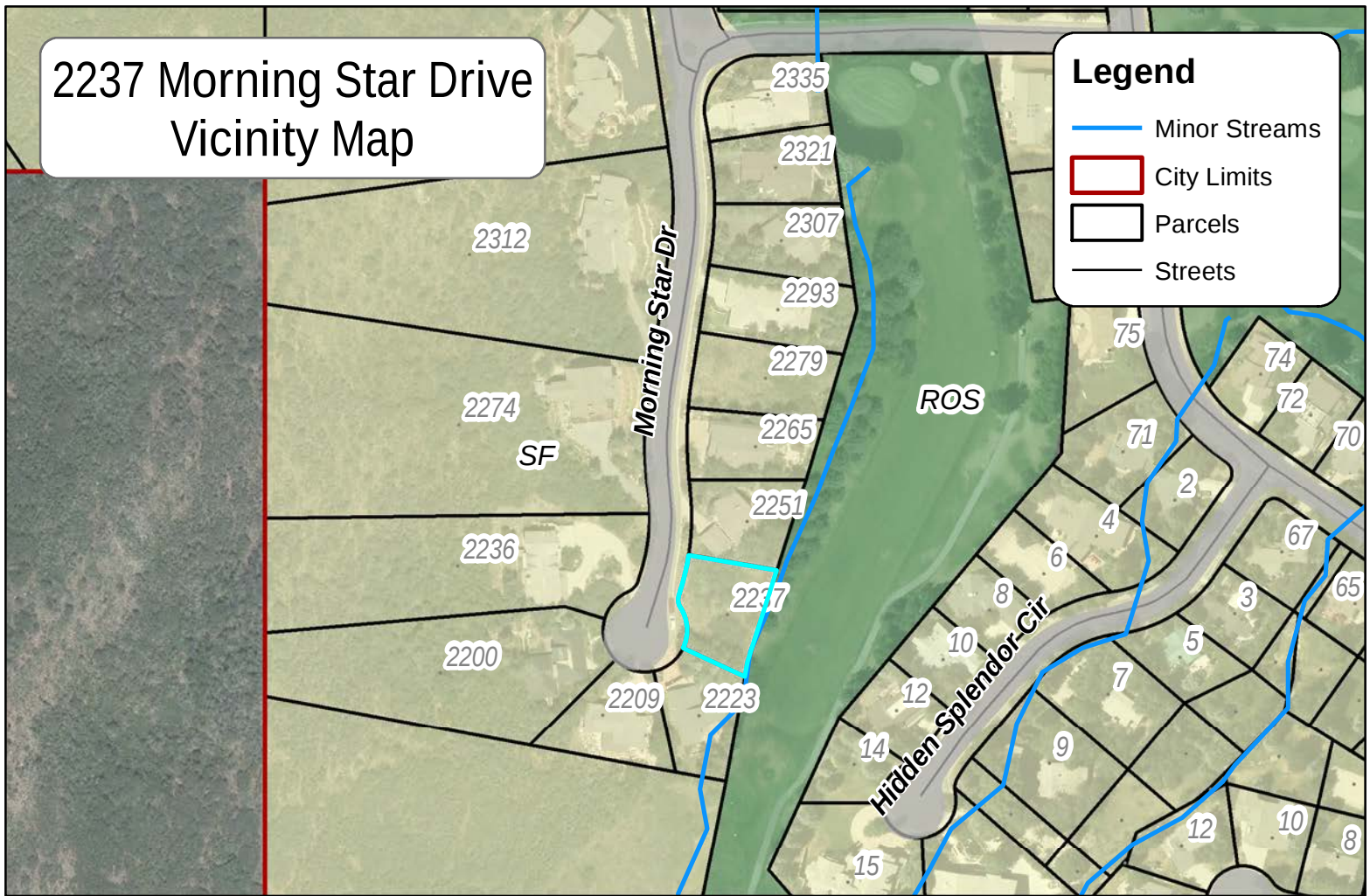
RECEIVED
OCT 03 1994
PARK CITY CORPORATION

Cluster Residences
EXTERIOR ELEVATIONS
PRELIMINARY

2237 Morning Star Drive Vicinity Map

Legend

- Minor Streams
- City Limits
- Parcels
- Streets



Board of Adjustment Staff Report



Application #: PL-14-02500
Subject: Christian Center of Park City
Author: John Boehm, Planner
Thomas Eddington, Planning
Director
Date: November 18, 2014
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment review the proposed variances to the LMC § 15-2.18-3(D)(6) and (E), to reduce the minimum rear yard setback (5') and the eastern-most side yard setback (10') on a site in the General Commercial (GC) Zoning District to zero feet (0'), conduct a public hearing, and consider granting the variances. Staff's recommendation is based on the findings of facts and conclusion of law as outlined in this report.

Staff reports reflect the professional recommendation of the Planning Department. The Board of Adjustment, as an independent body, may consider the recommendation but should make its decision independently.

Description

Applicant: Christian Center of Park City represented by Tom Wells
Location: 1283 Park Avenue
Zoning: General Commercial (GC) District
Adjacent Land Uses: Commercial and Light Industrial
Reason for Review: Variances require Board of Adjustment approval

Proposal

The tenant of 1283 Park Avenue, the Christian Center of Park City, is requesting variances to reduce the required minimum side and rear yard setbacks from ten feet (10') and five feet (5'), respectively, to zero feet (0') on the north and east property lines of the subject property. Due to the hardships imposed by the current building location, a shared access easement with the neighboring property, an existing utility easement, two (2) easements at the southern portion of the property and the existing Frontage Protection Zone (FPZ), there are unique circumstances that limit the size and location of any additional development and improvements on this property. See Exhibits B, C, D for an existing conditions survey, aerial photos of the site and a proposed site plan with land use percentages. Staff finds that these variances will encourage a site layout that allows for efficient patron circulation while maintaining the existing characteristics of the frontage along Deer Valley Drive.

Purpose

The purpose of the General Commercial (GC) District is to:

(A) allow a wide range of commercial and retail trades and Uses, as well as offices, Business and personal services, and limited Residential Uses in an Area that is convenient to transit, employment centers, resort centers, and permanent residential Areas,

(B) allow Commercial Uses that orient away from major traffic thoroughfares to avoid strip commercial Development and traffic congestion,

(C) protect views along the City's entry corridors,

(D) encourage commercial Development that contributes to the positive character of the City, buffers adjacent residential neighborhoods, and maintains pedestrian Access with links to neighborhoods, and other commercial Developments,

(E) allow new commercial Development that is Compatible with and contributes to the distinctive character of Park City, through Building materials, architectural details, color range, massing, lighting, landscaping and the relationship to Streets and pedestrian ways,

(F) encourage architectural design that is distinct, diverse, reflects the mountain resort character of Park City, and is not repetitive of what may be found in other communities, and

(G) encourage commercial Development that incorporates design elements related to public outdoor space including pedestrian circulation and trails, transit facilities, plazas, pocket parks, sitting Areas, play Areas, and Public Art.

Background

In June and July of 2012, City staff met with the Christian Center of Park City to discuss several issues that were not in compliance with City codes. These issues were related to the temporary outdoor storage associated with the drop-off and pick-up of donated goods. At that time, the Christian Center did not own the property, so long term solutions to these issues were limited. In September of 2013, an agreement was reached between the owners of the property and the Christian Center to purchase the property by the end of 2015.

City staff again met with the Christian Center representatives in June of 2014 to discuss long-term solutions to the issues raised in prior meetings. Several options for reconfiguration and expansion were discussed at these meetings but these options were eventually eliminated due to the existing conditions and unique circumstances associated with the property.

On September 30, 2014, the City received an application for a variance from the Christian Center of Park City. This application was deemed complete on October 1, 2014.

Analysis

The subject property is Lot 1 of the Deer Valley Drive Subdivision (DVD-1). The property consists of one (1) irregular shaped lot. The north and east property lines are typical for the area; however, the south and west property lines are not typical due to the curved frontage on Deer Valley Drive and the shared access easement on the west side of the property. The total lot size is 38,983 square feet or approximately .90 acres.

The site currently has two (2) buildings located on it, the existing Christian Center building which is oriented in a parallel manner to the Deer Valley Drive right-of-way, and a garage/storage area that is oriented in a traditional manner (square to the north and east property lines). The main building is 5,053 square feet in size and the garage/storage is 580 square feet.

There are several easements on the property. First, there is a twenty-five foot (25') non-exclusive utility and snow storage easement along the south property line. There is also a nine foot (9') wide pathway easement controlled by the City that winds through the south-eastern portion of the property. The property also sits within the City's Frontage Protection Zone (FPZ) which restricts the construction of any structure within thirty feet (30') of Deer Valley Drive. These three factors significantly reduce the property owner's ability to utilize the southern portion of the property. There is also a sixteen foot (16') wide utility easement that extends from the north property line almost to the middle of the property area and a shared access easement along the west property line that further limit development in these locations on the site.

The garage/storage area located at the northwest corner of the main building was at one time a covered drive-thru for a bank. After the Christian Center moved into the building in 2010, the drive-thru was converted into a storage area to assist with the drop-off and delivery needs of the Center. The current location of this garage/storage area creates circulation issues as patrons have a limited amount of space in which to enter the receiving area, drop-off/pick-up materials, and then using the same congested ingress/egress. The applicant is proposing to relocate this and other materials handling areas to the perimeter of the property, along the east and north property lines, to improve the flow of traffic in and out of the Center.

The property is located in the General Commercial (GC) zoning district and is subject to the regulations set forth in LMC § 15-2.18. In order to resolve the hardships related to the site constraints of this lot, the applicant is now requesting variances from the required five foot (5') rear yard and ten foot (10') side yard setbacks along the north and east property lines to allow for parking up to the lot line, in other words, the applicant is requesting zero (0') lot lines on the north and east property lines to allow for additional building and parking area on the site.

Currently, the area along the north property line consists of a steep drop off filled with rubble and debris. The property adjacent to this property line, the City's Public Works Facility, is developed up to the property line. The area along the east property line

consists of a landscaped berm with significant vegetation growing on portions of it. The property adjacent to this property line is the City's Poison Creek Trail. Any development in this area would need to be properly mitigated to prevent negative impacts to the user experience on the trail.

The applicant is requesting these variances to address issues related to a hardship created by the easements on the southern and western property boundaries as well as the Frontage Protection Zone requirements. Specifically, these easements create a situation where all ingress and egress must occur in a congested area. Additionally, all improvements to the existing buildings must occur in an area that is significantly limited by these existing easements.

Staff has reviewed various preliminary designs for this site. At this time, the applicant is proposing to expand the hard-surfaced parking area to improve circulation and the overall ability to use the property to its fullest extent. Of the various preliminary designs, the only design that doesn't create additional parking and circulation constraints is a design with zero (0') lot lines on the north and east property lines. Staff has found that there would be no perceived negative impact of this design on existing properties or the community. Granting these variances is essential not only to the enjoyment of the substantial property right possessed by other property in the same zone, but will greatly impact the overall compatibility of the design in a neighborhood context.

LMC Review Criteria for a Variance

In order to grant the requested variance to the aforementioned code sections, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 are met. The Applicant bears the burden of proving that all of the conditions justifying a variance have been met.

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. *In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under the BOA 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. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.*

The Property is zoned in the General Commercial (GC) District. The current and proposed uses of the property previously described comply fully with the permitted zoning uses, as described in Title 15, Chapter 15-2.18-1. Due to the irregular shape and placement of the Property, the LMC requirements for front yard setbacks of twenty feet (20'), rear yard setbacks for parking areas of five feet (5'), and side yard setbacks of ten feet (10'), as listed in 15-2.18-3, would cause an unreasonable hardship. The curvature of both Deer Valley Drive to the South and Bonanza Drive to the East restricts the development in the South-East corner of the property. A public path and Silver Creek

are also located to the East between Bonanza Drive and the Property, creating lot development restrictions. The property line to the west is irregular due to an access easement from Deer Valley Drive that is also shared with an office building to the west. There is the City's Public Works and bus barn facility located to the North of the Property.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. *In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.*

A. Existing Building Siting

The existing building is sited in the South-East corner of the Property. Setbacks on the East side of the building currently range from 8 feet minimum, to 28 feet maximum. The building is setback 40 feet from Deer Valley Drive and a 25 feet non-exclusive utility and snow storage easement overlay and a curving 9 feet path on a Park City Municipal Corp easement are located on the Deer Valley Frontage.

Special Circumstance: The Property is unable to utilize the areas to the South and the East of the existing building due to the irregular placement on the Property and the easement overlay that exists on the Deer Valley Frontage.

B. Site Topography

The topography of the Property slopes considerably from the south-west corner to the north-east corner. The total change in elevation is 12 feet and the existing building is oriented to reflect the direction of the slope. As such, the southern portion of the building is located alongside an unexcavated area that cannot be utilized for the remodeling expansion. Any potential expansion must occur beyond the current perimeter of the building.

Special Circumstance: Due to the topography of the Property, remodeling expansion to the southern side is not possible.

C. Access Limitations

The property shares access from the Deer Valley Drive ROW with the office building to the west. This is the only access to the Property's parking area, and no other access is available due to the City's Public Works office and bus barn facility to the North, the unexcavated areas to the South, and the public path and creek to the East between the property line and Bonanza Drive.

Special Circumstance: Expansion of the existing building to the west is significantly restricted by the shared access from the Deer Valley ROW and requires additional importance of an efficient site plan to facilitate a larger building footprint, circulation, and parking.

D. Circulation and Parking.

The Center has a unique circulatory pattern due to the daily donation drop-offs of a wide variety of products. As such, the vehicular layout at the Center requires a site plan that will facilitate efficient circulation for access, parking, and drop-offs. The existing layout does not achieve this.

Special Circumstance: The shared access easement on the western property line creates circulation and parking issues.

E. Easements

The southern end of the Property contains a 25 feet non-exclusive utility and snow storage easement and a 9 foot Park City Municipal Corp easement for an asphalt pathway that curves from east to north in the south-east corner of the property alongside Poison Creek. Additionally, the Property is subject to a Frontage Protection Zone that requires a minimum of 30 feet setbacks from the Deer Valley Drive ROW.

There are also two other easements located on the subject property. The first easement is a 16' wide gas easement running along the rear property line that turns southward towards the existing buildings. The second easement is a shared access easement that runs along the west property line.

In total, the existing easements on the property take up more than a quarter (26.63%) of the total square footage of the site. See exhibit E for a land use percentage analysis.

Special Circumstance: The encroachment of the City easements, utility and access easements, and the FPZ setbacks eliminate the possibility of developing the property in a manner consistent with other properties in the General Commercial zone.

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

The following factors restrict the potential for full enjoyment of substantial property rights:

- a. Building Siting: The existing building is sited irregularly within the property boundaries and restricts the ability to expand to the east and south because of such.
- b. Shared Access: Due to the sole shared access road from Deer Valley Drive the applicant is unable to expand to the west of the existing building
- c. Circulation and Parking: The necessity for efficient circulation and parking is restricted by the existing site plan. Granting the variance is essential to maintain compliance with parking requirements and provide the safest and most convenient means of circulation.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

The Property will not affect the General Plan and will not be contrary to the public interest. Approval of the variance for the proposed side yard setbacks will result in greater efficiency from a new layout that will facilitate improved parking, circulation, and drop-offs. The variance is consistent with the General Plan and will, if approved, will benefit the public interest due to the increased circulatory capacity of the Property.

Granting the variance will also help to assist in implementing the following objectives of the General Plan:

- Objective 12A- Retain and expand existing Park City businesses.
- Objective 12C- Support local owned, independent businesses that reflect the core values of Park City and add to the Park City experience.

Criteria 5. The spirit of the LMC is observed and substantial justice done.

Title 15, Chapter 1-2

- (A) *To promote the general health, safety, and welfare of the present and future inhabitants, businesses, and visitors of the city.*

The services which the Center offers are consistent with this purpose on many counts

- (B) *To promote and enhance the vitality of the City's resort-based economy, the overall quality of life, the Historic character, and unique mountain town community*
- (C) *To protect and preserve peace and good order, comfort, convenience, and aesthetics of the City*

The Center is centrally located and regularly open to residents or visitors seeking aid in the form of assistance, food, clothing, counseling, clothing, or other items

- (F) *To provide for well-planned commercial and residential centers, safe and efficient traffic and pedestrian circulation, preservation of night skies and efficient delivery of municipal services*

Pedestrian ROW on pathways are preserved with the approval of the variance, and traffic and pedestrian circulation within and surrounding the Property are significantly improved, alleviating pedestrian safety issues and reducing the potential for traffic backup

(I) *To protect or promote moderate income housing*

Assistance is available for matters including that of a financial nature and promoting moderate income housing in Park City

Future Process

Approval of these variances by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13. Planning Department approval of any future construction is necessary prior to the issuance of a Building Permit. Staff review of a Building Permit is not publicly noticed unless appealed.

Department Review

The application was taken to the Planning Director, Assistant City Manager and City Attorney for additional interdepartmental review. No further issues were brought up at that time.

Notice

The property was posted and notice of the variance request was mailed to property owners within 300 feet of the property in accordance with requirements of the LMC. Legal notice was published in the Park Record according to requirements of the Code.

Public Input

No public input has been provided at the time of this report.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The applicant will have to meet existing setbacks for any new development on the property.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variances to the LMC § 15-2.18-3(D)(6) and (E), to reduce the minimum rear yard setback (5') and the eastern-most side yard setback (10') on a site in the General Commercial (GC) Zoning District to zero feet (0'), conduct a public hearing, and consider granting the variance based on the findings of facts and conclusion of law.

Findings of Fact (for Staff's Recommendation)

1. The property is located at 1283 Deer Valley Drive.
2. The property is located within the General Commercial (GC) District.
3. The property owner requests variances from the LMC § 15-2.18-3(D)(6) and (E), which dictates minimum rear (5') and side yards (10') in the General Commercial (GC) Zoning District. The applicant is requesting that both of these setbacks be reduced to zero (0') feet.

4. The property consists of one (1) lot. The lot contains 38,983 square feet.
5. The property has two (2) existing structures on it, a 5,053 square foot main building and a 580 square foot garage/storage building.
6. The property has a twenty-five foot (25') non-exclusive utility and snow storage easement along the south property line.
7. The property has a nine foot (9') wide pathway easement controlled by the City that winds through the south-eastern portion of the property.
8. The property has a sixteen foot (16') wide utility easement that extends from the north property line almost to the center of the property.
9. The property has a shared access easement along the west property line. This is the only access to the property.
10. The same LMC requirements apply to this lot as apply to all lots of this size that are not encumbered by these easements.
11. The property sits within the City's Frontage Protection Zone (FPZ) which restricts the construction of any structure within thirty feet (30') of Deer Valley Drive.
12. The location of the existing garage/storage building significantly impacts internal circulation on the property.
13. The applicant is requesting a variance to LMC § 15-2.18-3(D)(6) and (E), which dictates a five foot (5') minimum rear yard for parking areas and ten foot (10') side yard setback in the General Commercial (GC) Zoning District.
14. The applicant is requesting this variance to address unreasonable hardships facing this property due to the location of the easements and the existing buildings in order to create a design that promotes more efficient internal circulation.
15. Granting of the variance will assist in effectively implementing Objective 12A of the General Plan which aims to "Retain and expand existing Park City businesses."
16. Granting of the variance will assist in effectively implementing Objective 12B of the General Plan which is to "Support local owned, independent businesses that reflect the core values of Park City and add to the Park City experience."
17. There is significant vegetation on the subject and adjacent properties that serve as a natural buffer to City rights-of-way. No vegetation will be disturbed on adjacent properties.
18. The spirit of the LMC is observed and substantial justice done.

Conclusion of Law (for approval)

1. Literal enforcement of the GC District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order (for approval)

1. A variance to LMC § 15-2.18-3(D)(6) and (E), which is a reduction to the minimum rear (5') and side yard (10') setbacks to zero feet (0'), is hereby granted.
2. The variance runs with the land.

Exhibits

Exhibit A – Applicant's supplemental narrative for the variance requests

Exhibit B – Existing Conditions Survey

Exhibit C – Aerial Photo of Subject and Neighboring Properties

Exhibit D – Proposed Site Plan



ELLIOTT WORKGROUP

November 14, 2014

Christian Center Variance Request Supplemental Narrative

Responses to LMC 15-10-8. (C):

(1) Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code;

Due to the special circumstances listed in item (2) the literal enforcement of the LMC creates an unreasonable hardship for the Applicant, by unreasonably restricting the development of the property.

(2) There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone;

The Property has a unique shape as compared to the other abutting properties in the zone. Along with this unique shape, the building pad is severely restricted by utility easements, access easements and frontage protection zone. These combined conditions substantially reduce the development pad for the property and more importantly restrict the location that parking can be placed on site. (See attachment showing pertinent data to substantiate this statement.)

(3) Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone;

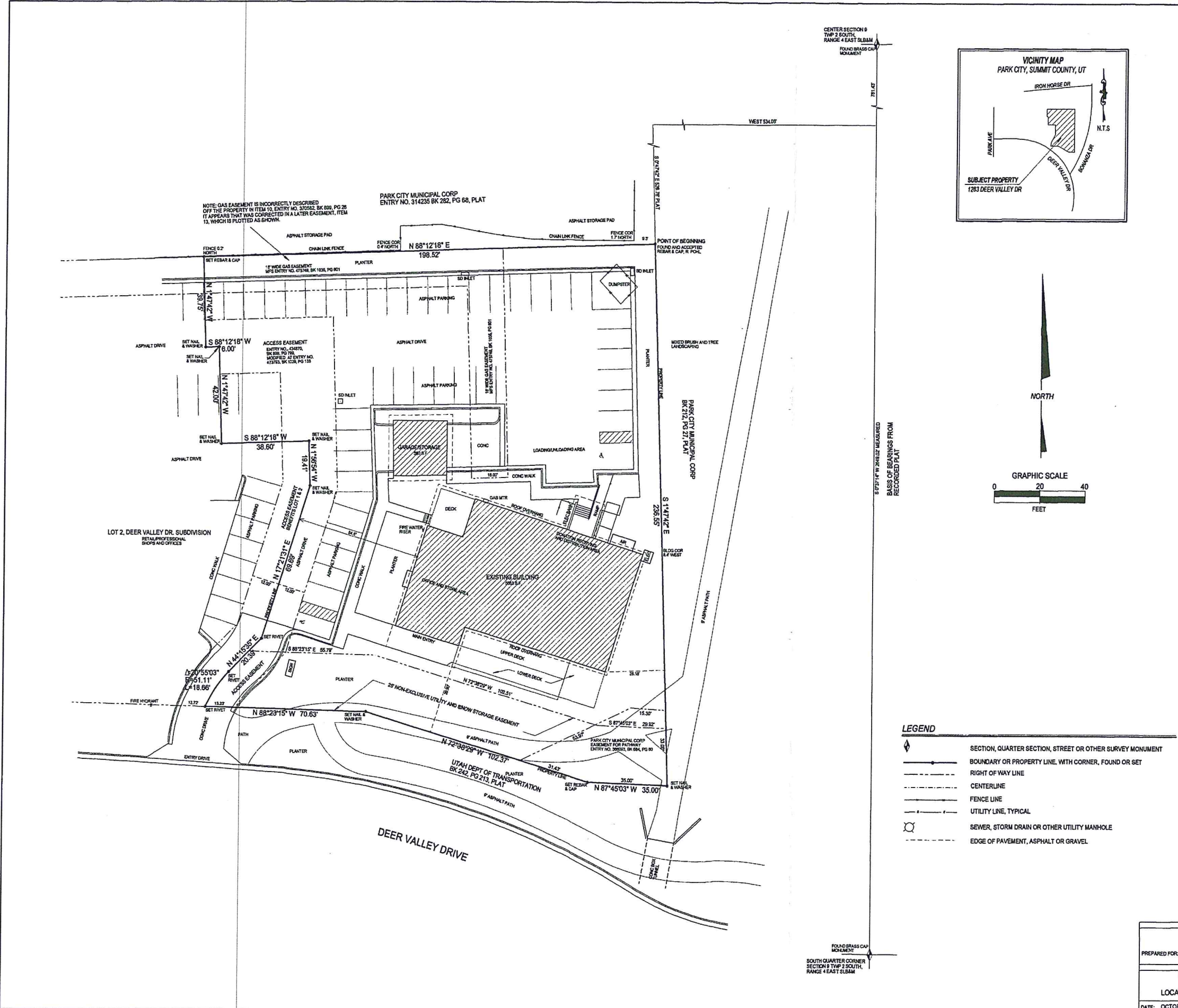
Granting this variance will allow the Property to develop in a manner consistent with other properties in the zone with similar conditions and with a similar property area to building footprint ratio.

(4) The variance will not substantially affect the General Plan and will not be contrary to the public interest; and

In this instance, the primary request is to provide a setback reduction to provide a properly functioning parking layout. This layout will create a better flow within the parking and service areas of the site and reduce congestion within the parking area that could otherwise result in a negative impact on traffic along Deer Valley Drive. The property adjacent to eastern setback consist of a generally undevelopable parcel between the Property, a trail, and Poison Creek / Bonanza Drive. the property adjacent to the north is a parcel that has a paved yard up to the property line and also has structures located within the side yard setback. This variance request does not limit the enjoyment of the surrounding properties and thus is not contrary to the public interest.

(5) The spirit of the Land Management Code is observed and substantial justice is done.

This request is in keeping with the spirit of the LMC as it does no harm to the adjacent properties, and actually reduces the negative impacts on traffic flows at the point of access.



ALTA/ACSM LAND TITLE SURVEY CERTIFICATION

To Stewart Title Guaranty Company, Coalition Title Agency, 1283 DVD, L.L.C., a Utah Limited Liability Company, and The Christian Center of Park City.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1.2, 4.6, 7(a), (b), 8-9, 11(a), and 13 of Table A thereof. The field work was completed on October 31, 2013.

Date of Plat: October 31, 2013
By: Byron T. Curtis, P.L.S. 163486 UT



LEGAL DESCRIPTION

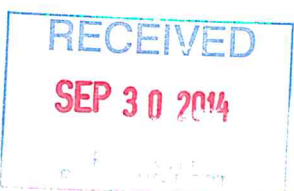
LOT 1, DEER VALLEY DRIVE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE SUMMIT COUNTY RECORDER. SAID DESCRIBED TRACT CONTAINS 38,882 SQUARE FEET, OR 0.89 ACRES, MORE OR LESS.

NARRATIVE

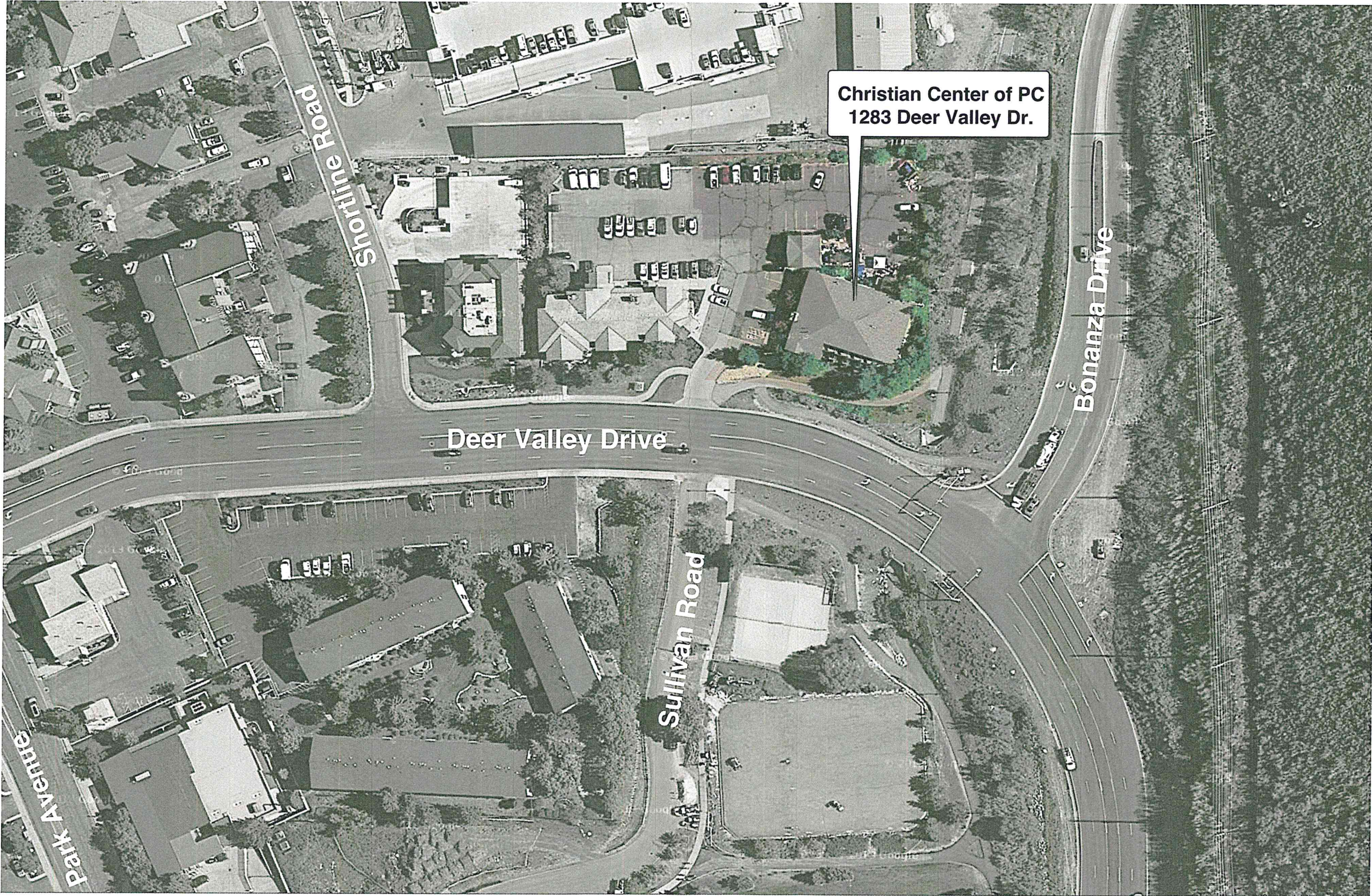
PROPERTY SURVEYED AT THE REQUEST OF THE CLIENT FOR THE PURPOSE OF PREPARING AN ALTA LAND TITLE SURVEY, TO SHOW THE IMPROVEMENTS AND EASEMENTS. BASIS OF BEARINGS AS SHOWN. CORNERS SET WITH REBAR AND CAP STAMPED 163486, OR NAIL AND WASHER, UNLESS NOTED OTHERWISE.

REFERENCES

- TITLE REPORT DATED SEPTEMBER 17, 2013, PREPARED BY COALITION TITLE AGENCY FOR 1283 DVD, L.L.C., COMMITMENT NO. 22220
- TITLE EXCEPTIONS IN THAT COMMITMENT, SCHEDULE B, DOCUMENTS OBTAINED FROM SUMMIT COUNTY RECORDER.
- RECORDED SUBDIVISION PLAT FOR DEER VALLEY DRIVE SUBDIVISION, OBTAINED FROM SUMMIT COUNTY RECORDER.
- RECORDED SURVEY FILE NO. S-4077, PREPARED BY RANDY J. SORENSON, OBTAINED FROM SUMMIT COUNTY RECORDER.
- ADJOINING OWNERSHIP INFORMATION FROM RECORDED PLAT AND CONFIRMED TO BE CURRENT, OBTAINED FROM SUMMIT COUNTY GIS ONLINE DATABASE.



TITLE		CURTIS & ASSOCIATES	
ALTA LAND TITLE SURVEY		LAND SURVEYORS LAND PLANNING	
PREPARED FOR: 1283 DVD LLC AND THE CHRISTIAN CENTER OF PARK CITY		9221 KRAMER CIR SANDY, UTAH 84092 PHONE (801) 915-6003	
LOCATION AND ADDRESS			
1283 DEER VALLEY DRIVE, PARK CITY, SUMMIT COUNTY, UTAH			
LOCATED IN THE SW 1/4 OF SECTION 9, TWP 2 SOUTH, RANGE 4 EAST, SLB&M			
DATE: OCTOBER 31, 2013	SCALE: 1"=20'	FILENAME: WELLS_CHRISTIANCENTER.PCS	



RECEIVED
SEP 30 2014
PARK CITY
PLANNING DEPT.

1635 SHORLINE RD
Owner: Mark Edward H
Trustee
Parcel Number: PAL-4&5

1647 SHORTHLINE RD
Owner: Mountain Trails
Real State LLC
Parcel Number: SA-224-J-
1

COPPERBOTTOM INN
Owner: Multiple

JANS SPORTS
Owner: Jans LTD Corp.
Parcel Number: PAL-1

US BANK
Owner: PC Park Avenue
LLC
Parcel Number: SA-224-C

QWEST
Owner: Qwest Corporation
Parcel Number: S-49

PARK CITY PUBLIC WORKS
Owner: Park City Municipal
Corp.
Parcel Number: PCPW-1-X

FRONTIER BANK
Owner: Grand Valley Bank
Parcel Number: PCPW-2

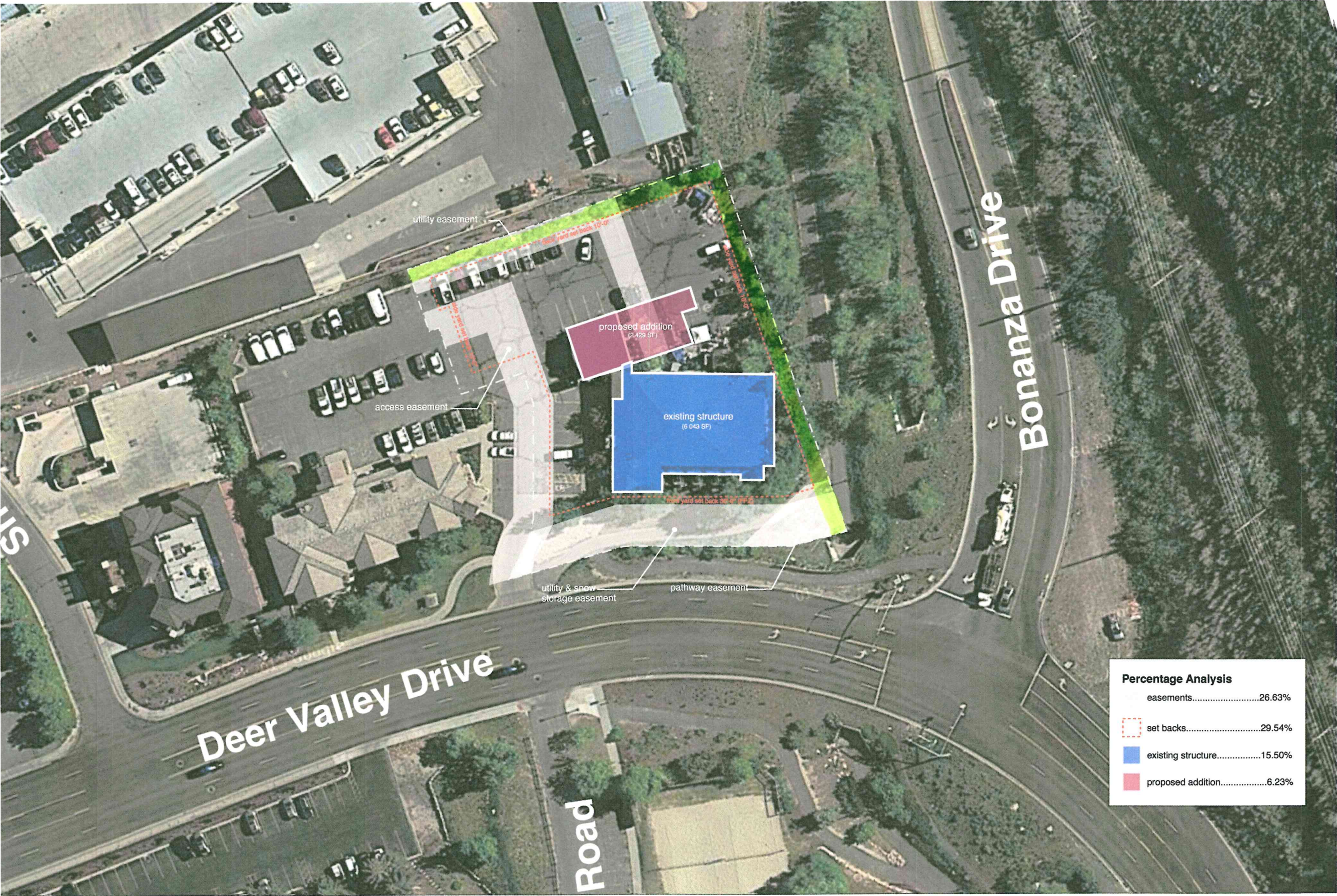
FIRST WESTERN BUILDING
Owner: Multiple

CHRISTIAN CENTER OF PARK
CITY
Owner: 1283 DVD LLC
Parcel Number: DVD-1

CITY PARK
Owner: Park City Municipal Corp.
Parcel Number: SA-224-G-5-X

SNOW COUNTRY CONDO
Owner: Multiple





ELLIOTT WORKGROUP
Elliott Workgroup Architecture, LLC
364 Main Street, P.O. Box 3419
Park City, Utah 84060
Phone: (801) 415-1839
elliottworkgroup.com

Board of Adjustment - November 18, 2014

Percentage Study
P-007
November 14, 2014



Proposed Setback Reduction Area

CHRISTIAN CENTER EXPANSION

Christian Center of Park City
1283 Deer Valley Drive
Park City, Utah 84060
(435) 649-2260 or (206) 949-7392
www.ccofpc.org