

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS, CITY HALL
October 21, 2014**



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF October 7, 2014 – Continued to November 11, 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*

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.

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.

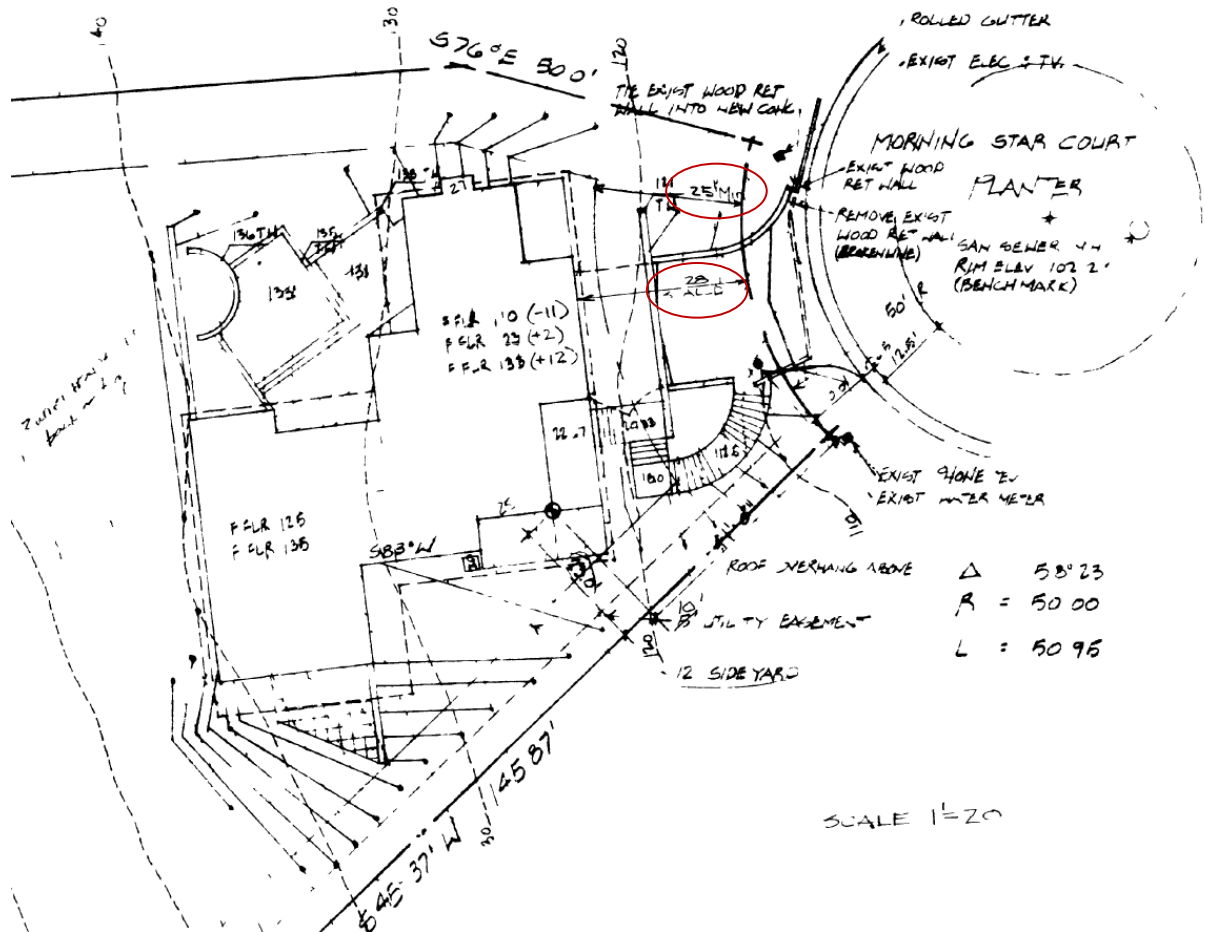
Staff was able to find the following information regarding the two mentioned sites on the applicant's write up:

- 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

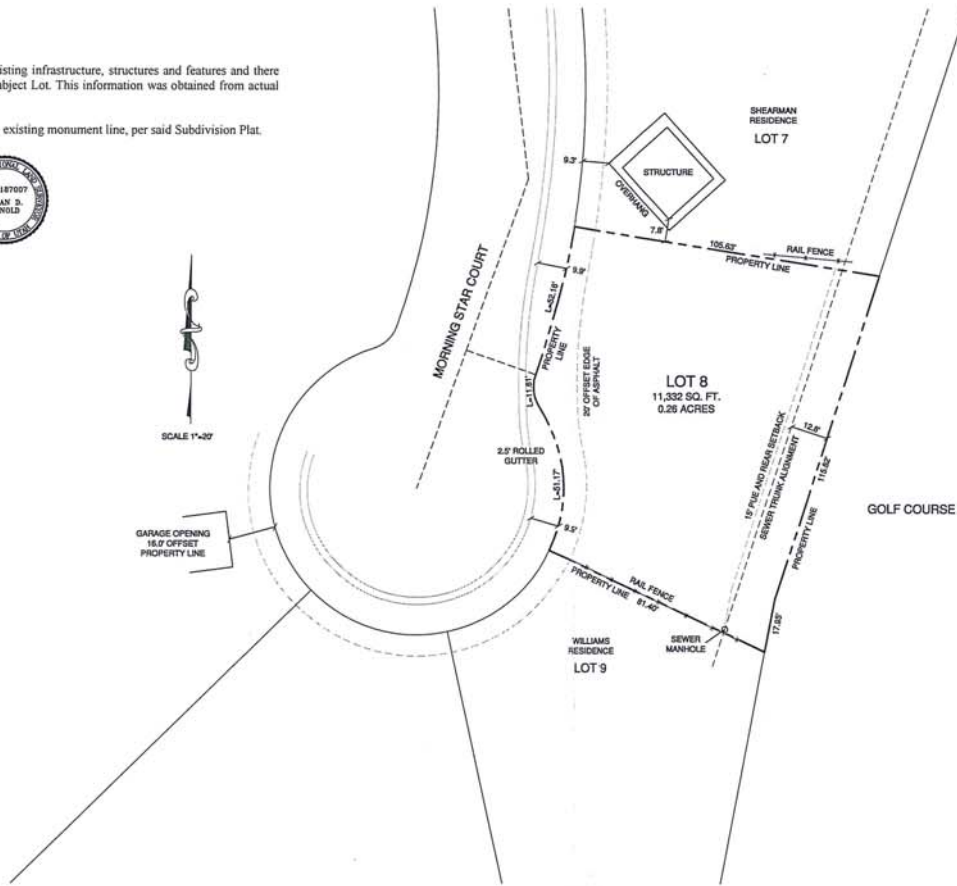
Exhibit B – Existing Site Plan

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.

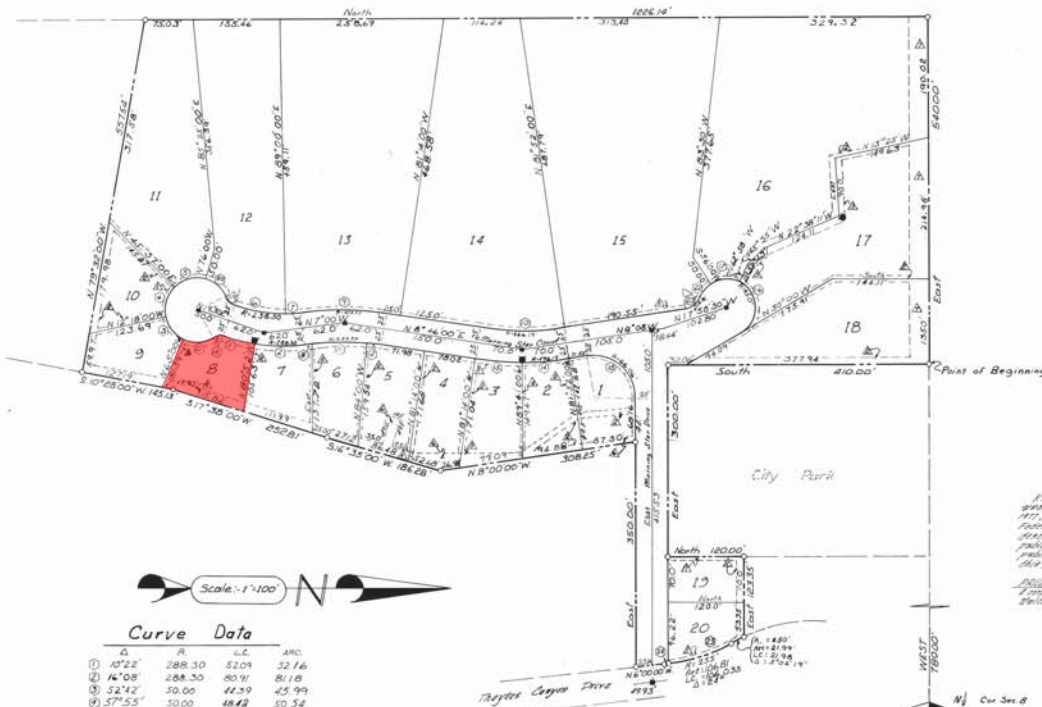
The Basis of Bearing for this exhibit is the existing monument line, per said Subdivision Plat.



1		1		PSOMAS		EXHIBIT A – PLANNING DEPT. MIKE ALLRED PARK CITY, UTAH		DATE 08-08-14	
DESIGNED		BDA		4179 S. Riverhood Road, Suite 200 Salt Lake City, Utah 84123 (801) 270-5777 (801) 270-5782 (FAX)				PROJECT NO. BMAC010400	
SHEET		BDA							



Exhibit C – Thaynes Canyon Subdivision No. 3



Curve Data			
	δ	Δ	ARC
①	142°08'	288.30	52.07
2	142°08'	268.30	80.91
3	57°52'	50.00	45.99
4	57°52'	50.00	48.49
5	57°52'	50.00	50.34
6	20°50'	238.30	68.75
7	20°50'	238.30	84.81
8	17°14'	238.30	24.74
9	17°14'	422.77	9.12
10	55°46'	422.77	12.49
11	55°46'	422.77	15.60
12	11°37'44"	422.77	85.46
13	55°54'06"	422.77	21.41
14	8°27'	746.19	73.11
15	8°27'	746.19	73.11
16	8°27'	746.19	73.11
17	8°27'	746.19	73.11
18	12°58'58"	45.00	79.08
19	12°58'58"	45.00	75.58
20	60°12'58"	45.00	75.70
21	60°12'58"	45.00	77.92
22	53°04'42"	12.35	11.20
23	53°04'42"	23.25	11.61
24	58°36'42"	50.00	48.35
25	58°36'42"	50.00	48.35
26	53°04'42"	25.50	31.25
27	53°04'42"	25.50	32.49
28	23°35'55"	85.00	105.69
29	23°35'55"	85.00	106.65

Lot Area
in Acres

Note:

- **Serpy. Movements** (to be installed)
- **Fire Hydrants** (proposed)
 - △ 5' side non-exclusive utilities easement as shown
 - △ 10' with non-exclusive utilities easement as shown
 - △ 15' with non-exclusive utilities and road easement as shown
 - △ 10' side 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 Thaynes 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 29 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 26397.7 feet to the North Quarter Corner; thence West along the section line 780.00 feet from the Northeast corner of section 26, T₄S., R₁E., S₁W.; thence East along the section line 400.00 feet; thence East 410.00 feet; thence East 300.00 feet; thence North 120.00 feet; thence East 123.35 feet to a point on the Westerly right-of-way line of Thynes Canyon Drive, said point being on the arc of said curve which has a radius of 100.00 feet, N 85°02'30" E, 250.00 feet; thence Southwesterly, along the arc of said curve and Westerly right-of-way line, 219.99 feet to a point of a 255.00 foot radius curve to the right; thence Southwesterly along the arc of said curve 255.00 feet; thence West 106.68 feet to a point of range line, thence S 6°00' E, along the section Westerly right-of-way line 49.93 feet to the intersection of the NW 1/4 Sec. 30B, 25S.; thence S 16°15' W. 166.28 feet; thence S 17°38' W. 252.81 feet; thence S 10°28' W. 145.13 feet; thence N 7°32' W. 557.54 feet; thence North N 22°26.14 feet, thence East 540.00 feet to a point of beginning.

Contains 18.804 acres.

James G. West
License No. 3082

July 27, 1977

Thaynes Canyon Subdivision No 3

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

Owners Dedication

[illegible]

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

Ed. J. Thorne
Ed. J. Thorne
Ed. J. Thorne

Acknowledgment

State of the
County of Summit
On this 2nd day of October 1917
personally appeared before me the undersigned notary
public for and in said State of New Jersey, J. Edgar
Haley, being duly sworn, and deposed and testified that
he is a law officer of the Federal Bureau of Investigation
and that, as a representative of the Federal Bureau of
Investigation, he is sworn to protect the laws of the
United States of America, that he signed the various
declarations filed and submitted for the benefit of
the public in the manner and to the effect mentioned and
that said declaration executed the same.

Marie Halbur
Helen Public

ACKNOWLEDGMENT

State of Utah
County of Summit

On this 17th Day of July A.D. 1977 personally appeared before me the undersigned notarial 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.

Marie M. Olson My commission expires May 1, 1981
Notary Public Residing in Summit County, Utah

Received permanently herewith: A declaration of protective
 interests for Page Camps Submarine #3
 Date 11-1-54 Time 11:00 By W. J. ... Page 11-1-54

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

Burnis Watts
Chairman

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

John L. Hoback
Park City Engineer

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

Rich Coleman
Berk City Attorney

Certificate of Attest
Attest this 7th Day of Dec
A.D. 1977

Linda W. Deather
Park City Recorder

Council Approval & Acceptance
Approved & Accepted by the Park City
Council this 7TH Day of OCTOBER A.D. 1977

Leon Uriarte
Mayor

No. 147434 Recorded

State of Utah, County of Summit, Recorded and
 Filed at the request of:

Date 6/2/2007 Time

Fee Summit County Recorder

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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.

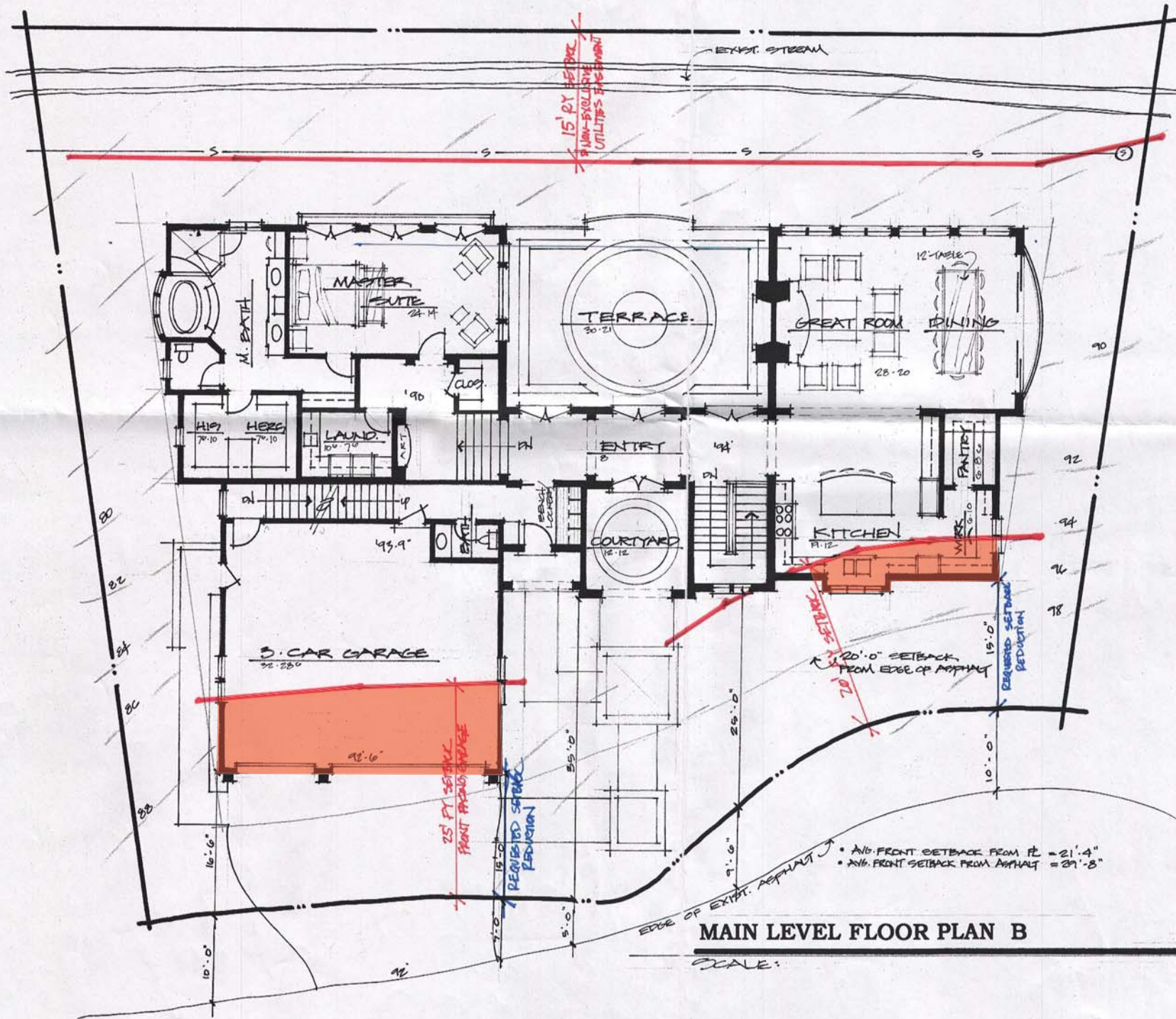
Sincerely,

Bryan D. Atwood, P.E.
District Engineer

Attachment

Cc: Park City Planning Dept.
Project File





ALLRED RESIDENCE

PARK CITY, UTAH

MORNING STAR COURT

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 ✓

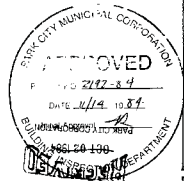
reynolds & mammen
architects

P O Box 1720 Park City, Utah 84050 (801)649-8868



LAIRO CLEVER
2200 Morning Star Drive
Park City, Utah

NOTES
1 TWO (2) 500' CONCRETE CRYSTAL BRIDGES
2 #10 8" DIA. 40' W. EXPOSED CONCRETE BRIDGE PIER - ALONG GRADE
3 20' W. BRIDGE - 20' DIA.
4 10' EXPOSED CONCRETE BRIDGE

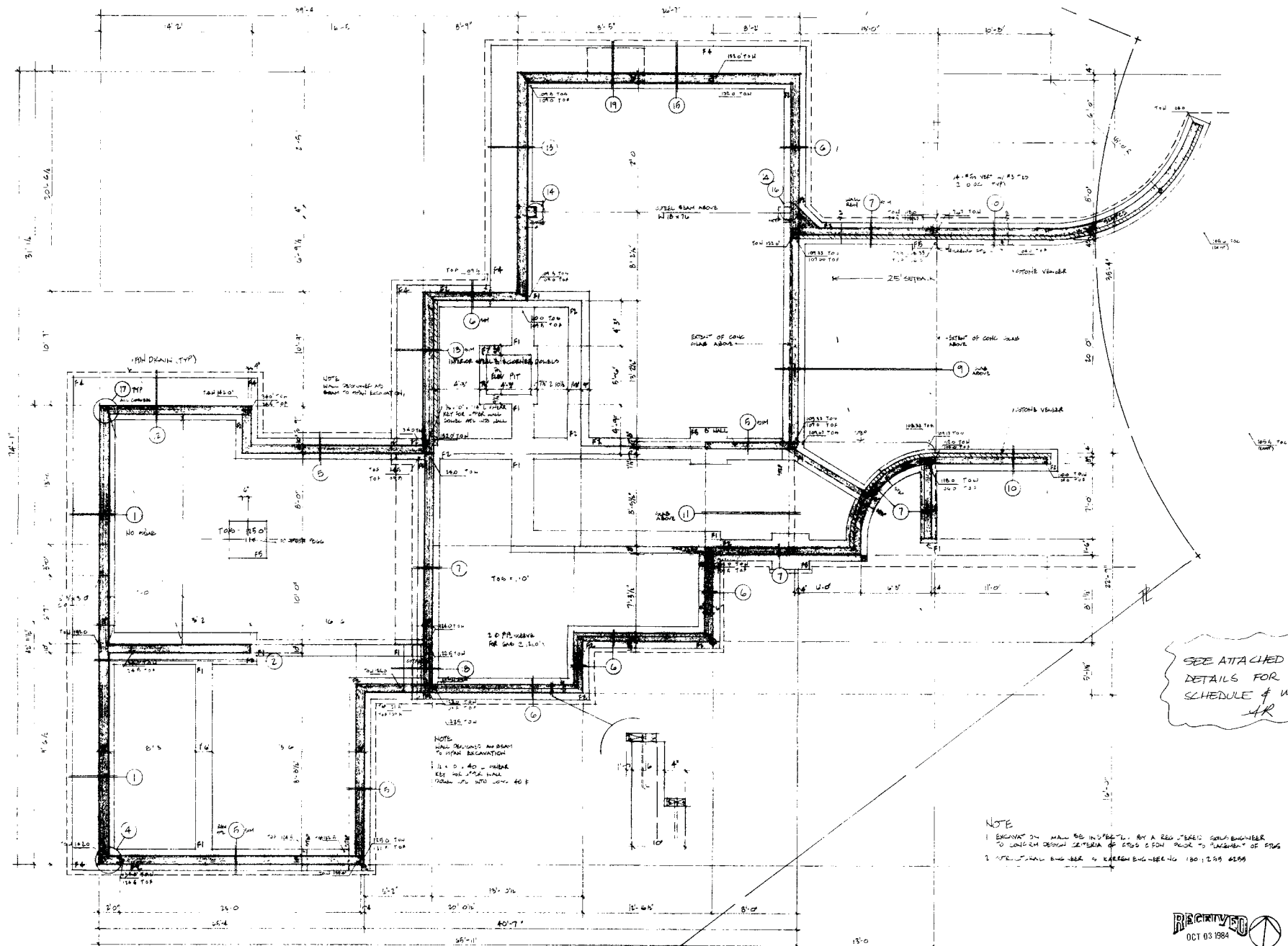


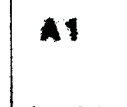
OCT 3 1984

Cleaver Residence
TITLE SHEET & PLOT PLAN

T1

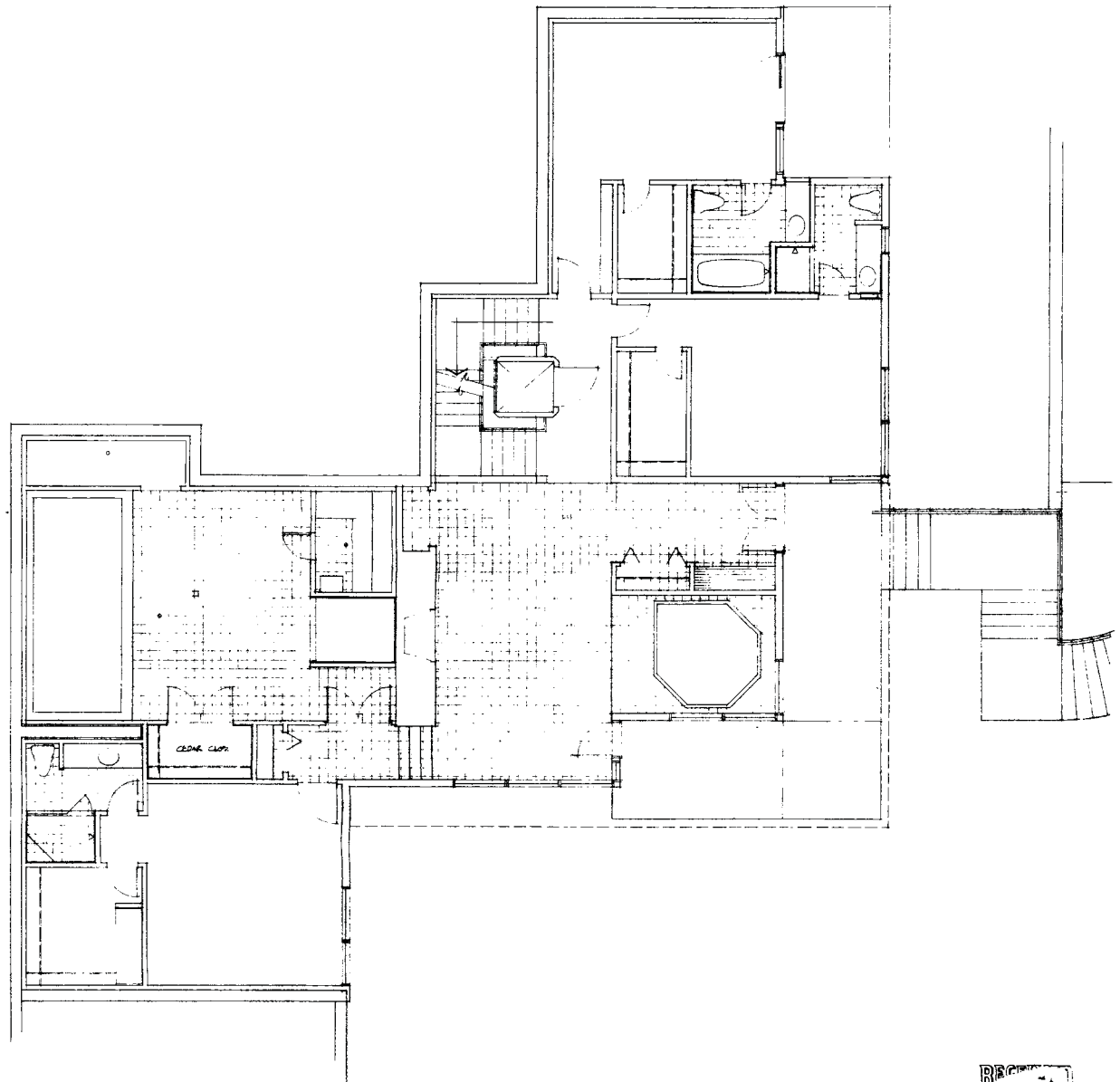
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OCT 03 1984
PARK CITY CORPORATION





~~PARK CITY COMMUNICATION~~

$$V_4 = 1.0$$

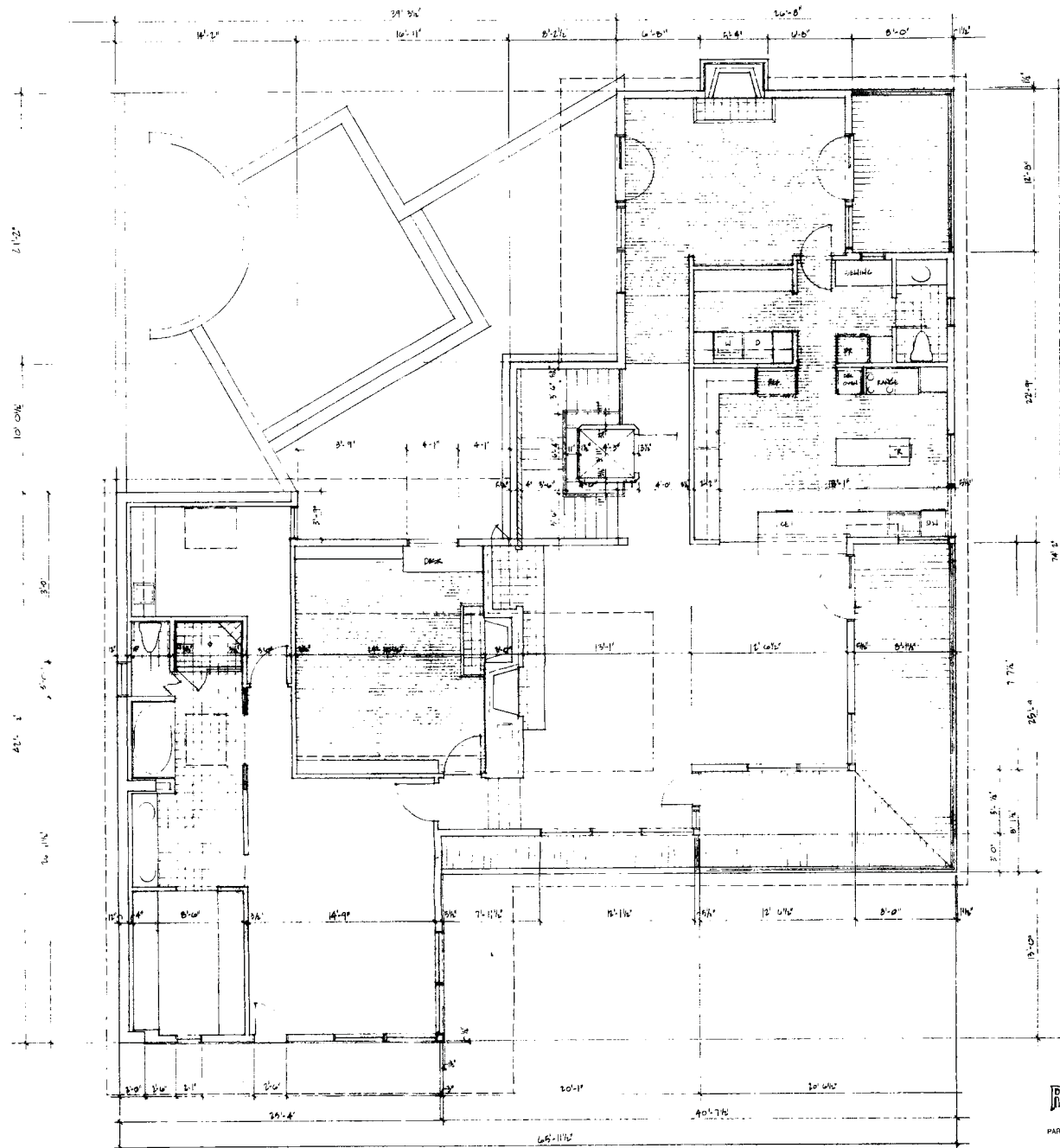


First Floor Plan

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1/4" = 1'-0"

Clever Residence	FIRST FLOOR PLAN	PRELIMINARY



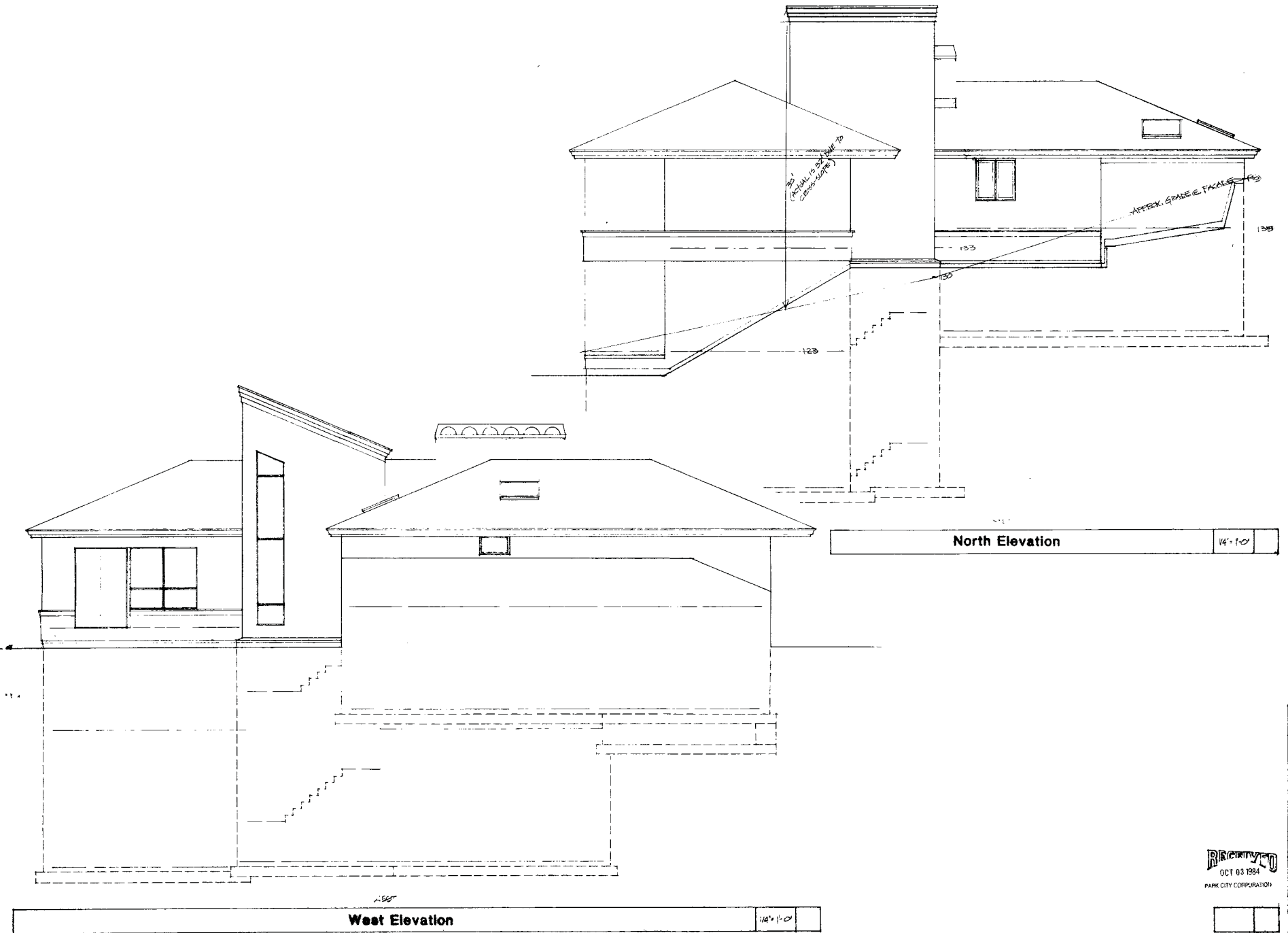
Second Floor Plan

RECEIVED
OCT 03 1984
PARK CITY CORPORATION

City of Park City
Planning & Zoning
DEVELOPMENT







RECEIVED
OCT 03 1994
PARK CITY CORPORATION

Cluster Residence EXTERIOR ELEVATIONS	PRELIMINARY

2237 Morning Star Drive Vicinity Map

Legend

- Minor Streams
- City Limits
- Parcels
- Streets

