

BOX ELDER COUNTY HEARING OFFICER

July 5, 2023

Application Type: Zoning Code Variance

Agenda Item: 1a

Applicant: Alan Jack Patterson

Current Zone: RR-5 (Rural Residential 5 acre)

Parcel #: 04-034-0028, 04-034-0023

Project #: VAR23-02

Staff Coordinator: Scott Lyons

I. REQUEST

The applicant is requesting a variance from the Box Elder County Road Standards. Specifically road section #1 for “minimum residential access, private road and private driveway (serving 1 or 2 lots) for driveways over 150 feet long”.

From the applicant:

It is my desire to construct a single-family dwelling on parcel 04-034-0028, which is currently accessed from State Road 38 via a 33' x 812' long private easement on parcel 04-024-0023. Currently the same easement services two other residences (04-034-0024 & 04-034-0020). There is a third residence (04-034-0023) directly abutting State Road 38, which uses the easement, but which has access directly off State Road 38. I have been informed by County Planners that all three residences are counted for purposes of determining the required easement width and quality of road. Although I dispute the number of valid residences having a right to use the easement, I seek a variance to resolve the issue, allowing me to use a minimum 30' gravel base private roadway for residential access.

II. BACKGROUND

1. *Project Location*

The property is located at 4583 North Hwy 38 in the Harper Ward area of unincorporated Box Elder County.

2. *Surrounding Land Use and Zoning*

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North	Rural Residential/Agriculture	RR-5
South	Rural Residential	RR-5

East	Rural Residential	RR-5
West	Agriculture	RR-5

3. *Project Description*

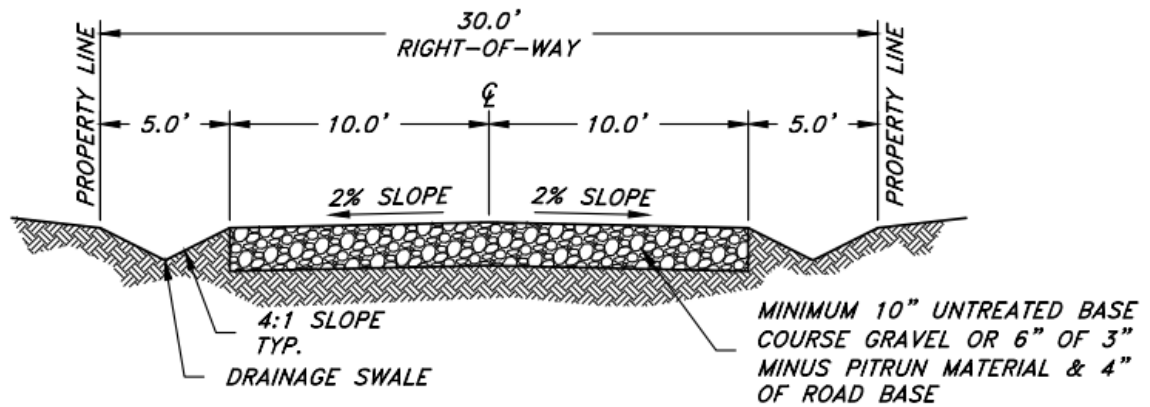
The applicant's property is currently zoned RR-5 (Rural Residential 5 acre). The applicant's parcel is 27.47 acres in size. The parcel is currently used for agriculture with some pasture, fencing, and an ag building. The parcel is approximately 800 feet down the private drive, which is currently being used by two existing homeowners. The applicant has a 33-foot access easement, which is not of sufficient width to construct road section #3 to his property. He would need to acquire an additional 27 feet of easement in order to meet road section #3.

III. **COUNTY CODE**

Section 5-1-340. Minimum Road Standards.

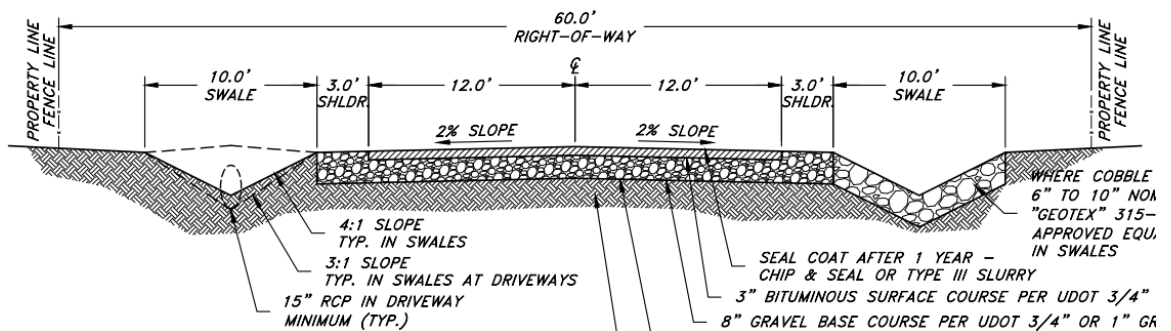
#1 ROAD SECTION

***MINIMUM RESIDENTIAL ACCESS, PRIVATE ROAD AND PRIVATE DRIVEWAY
(SERVING 1 OR 2 LOTS) FOR DRIVEWAYS OVER 150' LONG***



#3 ROAD SECTION

STANDARD PAVED PUBLIC ROAD



NOTE:

1. A #3 ROAD SECTION WILL BE USED WHEN A NEW SUBDIVISION ROAD IS CONSTRUCTED ADJACENT TO EXISTING PAVED ROADS.
2. A #3 ROAD SECTION WILL BE USED WHEN A NEW SUBDIVISION ROAD IS CONSTRUCTED ADJACENT TO AN EXISTING UNPAVED COUNTY ROAD, IS WITHIN 1/2 MILE OF AN EXISTING PAVED ROAD, AND THE COUNTY HAS PLANS TO PAVE THE CONNECTING ROAD WITHIN THE NEXT 3 YEARS.
3. SUBDIVISION LOTS TO BE 1 ACRE OR LARGER.

IV. APPROVAL STANDARDS REVIEW

Box Elder County Land Use Management & Development Code section 2-2-130(E) outlines the following standards for review for variances.

1. The Hearing Officer may grant a variance only if:
 - a. Literal enforcement of this Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Code;
 - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
 - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;
 - d. The variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 - e. The spirit of this Code is observed and substantial justice done.
2. The Hearing Officer may find an unreasonable hardship exists only if 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. The Hearing Officer may not find an unreasonable hardship exists if the hardship is self-imposed or economic.
3. The Hearing Officer may find that special circumstances are attached to the property exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zoning district.
4. An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
5. A use variance may not be granted.
6. In granting a variance, the Hearing Officer may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.

7. A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief, but not to the extent requested.

V. **APPLICANT RESPONSES – 5 criteria that must be met to grant a variance.**

1. Literal enforcement of this Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Code;

Applicant Response:

Literal enforcement of the provisions of the Box Elder County Land Use Management & Development Code 5-1-340 would cause me an unreasonable hardship, because it prevents me from ever using my real property for its best use. I would be unable to ever construct a residence on the parcel because my easement is only 33' wide, not the required 60'. Moreover, the requirement to construct a paved roadway upon the easement is an unreasonable hardship and unnecessary for this area. I already use the easement in question to access my real property parcel, so there would be little to no increase of traffic on the private easement. Moreover, this area is still primarily used for agriculture and lot sizes are large (5 acres or larger). My property's unique characteristics, size and location necessitate access via the 33' easement from Highway 38. Other landowners in the area surrounding the easement have been permitted to construct residences resulting in an increased burden upon my parcel as I seek to construct a residence. My parcel of property is the only parcel using this easement that is without a residence constructed upon it. This hardship is not self-imposed because the condition created was in existence for several decades and was only caused when abutting landowners begin constructing their own residences and the code changed to require larger improved and paved easements. It should be noted that parcel no. 04-034-0024 owns a separate 33' easement directly south of the existing easement roadway. (Entry # 190148). This 33' is mostly landscaped and unused as a roadway, but it is a valid easement and usable to access that parcel separate from the easement I use to access my parcel. Thus the number of homes required to use the same easement as I use reduces 1 (parcel 04-034-0020).

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;

Applicant Response:

My parcel of property has no frontage on a public roadway, but is accessible only through the 33' common easement. This property is currently zoned as RR-5, yet cannot be utilized as residential without the requested variance. Thus the variance is consistent with the intended use of my parcel. This property is also abutted to parcel 04-034-0029 which contains large ponds of stored water making any access from the NE corner impracticable, at best, even if I could secure a right of way or easement through another's property.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district;

Applicant Response:

Other similarly situated and zoned real property parcels have constructed residences located upon them and are able to peaceably enjoy the use of their parcels as residential parcels. Furthermore, other parcels in the area enjoy construction of sheds, outbuildings, barns, and similar incidental structures to their residences. Unless the variance is granted, I am unable to maintain the rural atmosphere of a gravel roadway nor construct a residence on my real property parcel. A paved road is not akin to a rural atmosphere for this area. Furthermore, paving the road would likely cause needless drainage issues for run off water, increasing the likelihood of flooding. Complicating the problem is that there are no known accessible public drains in this area that could be utilized to drain water from a paved roadway. This variance is necessary to insure that I can enjoy the same rural residential property rights as my neighbors, include parcel nos. 04-034-0020, 04-034-0024, 04-034-013, 04-034-0023, 04-034-0030, and 04-034-0029.).

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

Applicant Response:

First, preserving relatively rural residential views free from dense development services a public interest. This property is zoned RR-5, yet cannot be used for residential purposes under the current state of laws. Second, a proposed special exception will promote the public health, safety and welfare if granting the exception will contribute to the orderly development of the county as a whole. *Patterson v. Utah County Bd of Adjustment*, 893 P.2d 602 (Ut Ct App 1995). Granting my variance request contributes to the orderly development of the county as a whole because it promotes the best use of property, maintains a rural lifestyle, does not create unnecessary drainage problems, allows a residence to be constructed, and provides stability for continued property use. Third, increased tax assessment from the construction of a residence on my property is in the public interest because it increases available tax revenue for public expenditures. My request is based upon substantial evidence showing the variance is needed and not contrary to public interest. Lastly, it should not be overlooked that the roadway is private, not a public right of way, so the interest the public has in the easement roadway is lower than a public thoroughfare.

5. The spirit of this Code is observed and substantial justice done.

Applicant Response:

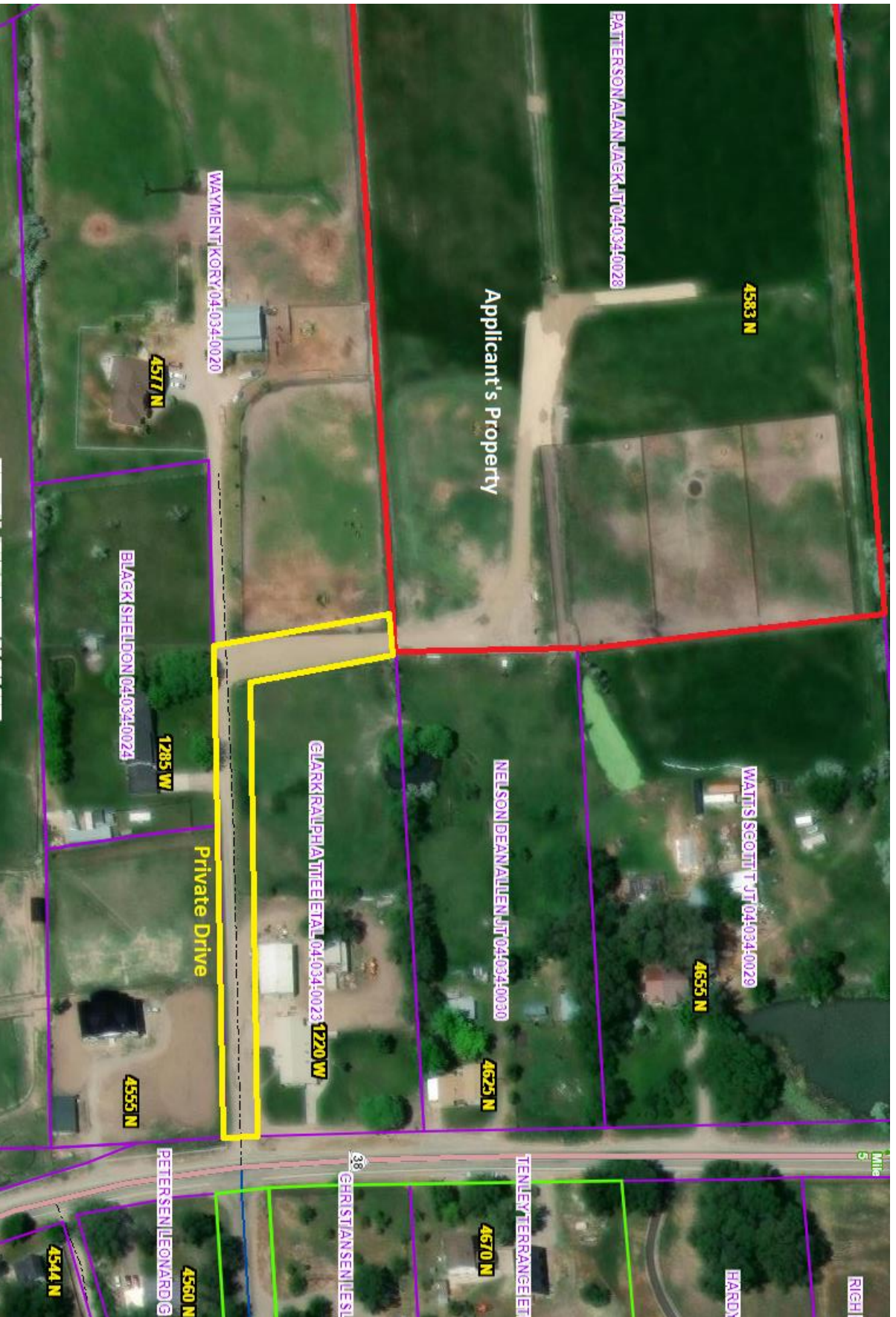
My property parcel is already using the easement, so there is no greater burden on the easement if the variance is granted. The spirit of the zoning ordinance is observed with the proposed variance because the zoned RR-5 parcel may be useable as a residence, rather than strictly as agricultural use. Moreover, Box Elder County Land Use Code states that "the purpose of providing a rural residential district are to promote and preserve in appropriate areas conditions favorable to large-lot family life; to maintain a rural atmosphere, to provide for the keeping of limited numbers of animals and fowl and to reduce requirements

for public utilities, services and infrastructure." See 3-1-020)C). My parcel is 27.47 acres, which is much larger than the 5 acre minimum size, and accomplishes all these purposes. Substantial justice is accomplished to all parties by granting the variance because it allows the property owner to use his property for residential purposes consistent with the zoning, comports to the spirit of the applicable zoning/land use code because it provides for a durable roadway consistent with the rural environment and reducing requirements for infrastructure, and it favors the public through increased tax revenue and an orderly development of real property while preserving a rural atmosphere.

ADDITIONAL INFORMATION

- Attached below is aerial imagery of the parcel requesting the variance, the easement/road, and adjacent properties.
- Also attached is a survey of the area, a site layout with easement information, and ownership deeds with easement information.

Please contact Scott Lyons at 435-734-3316 if you have any questions.



Applicant's Property

PATTERSON ALAN JACK JT 04-034-0028

4583 N

WATTS SCOTT T JT 04-034-0029

4655 N

NELSON DEAN ALLEN JT 04-034-0030

4625 N

GLARK RALPH/A THEE ET AL 04-034-0023

1220 W

WAYMENT KORY 04-034-0020

4577 N

BLAGK SHELDON 04-034-0024

1285 W

Private Drive

4555 N

38

CHRISTANSEN LEST

TENLEY TERRANGE ET

4670 N

PETERSEN LEONARD G

4560 N

HARDY

4544 N

5 Mile

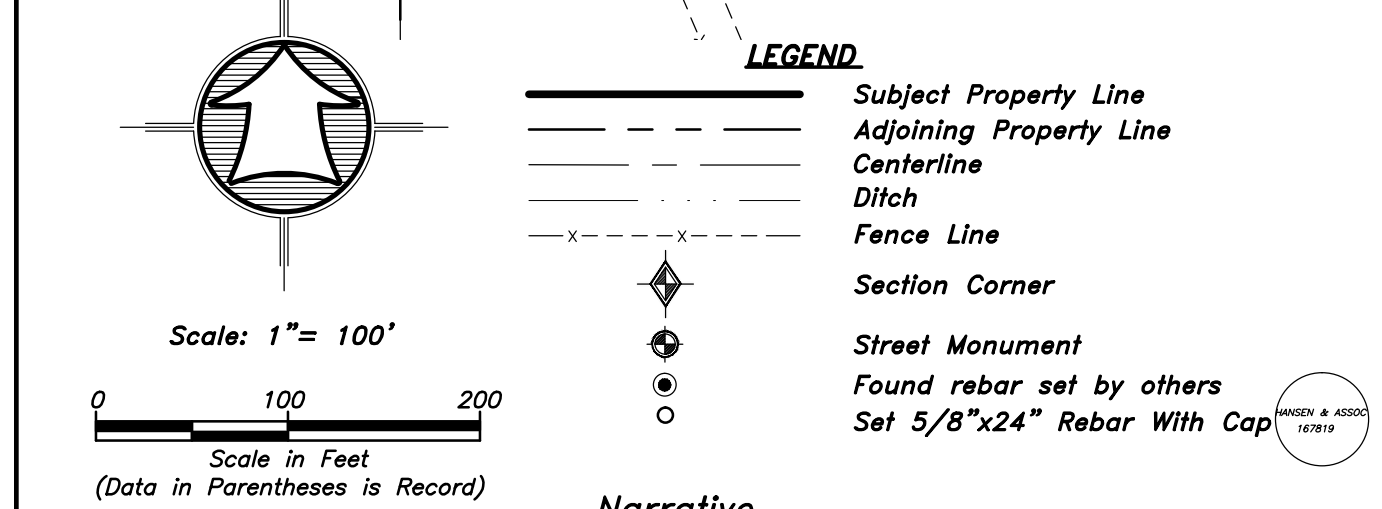


PARCEL NO. 1
 A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.
 BEGINNING AT A POINT LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 655.24 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;
 RUNNING THENCE SOUTH 86°31'58" WEST 2008.29 FEET TO THE WEST LINE OF THE EAST HALF OF SAID SECTION 22; THENCE NORTH 00°03'57" WEST 594.45 FEET ALONG SAID WEST LINE TO THE SOUTH BOUNDARY LINE OF THE J. CALVIN WHEATLEY PROPERTY, TAX ID. NO. 04-034-0002; THENCE NORTH 85°58'18" EAST (NORTH 86°51'51" EAST BY RECORD) 601.23 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE BOX ELDER COUNTY PROPERTY BEING THE ABANDONED U.I.C.R.R. AND A POINT ON AN EXISTING EAST - WEST FENCE LINE; THENCE ALONG SAID FENCE LINE NORTH 85°58'18" EAST 1365.55 FEET; THENCE SOUTH 06°16'25" EAST 384.09 FEET; THENCE SOUTH 00°17'32" EAST 225.62 FEET; TO THE POINT OF BEGINNING. CONTAINING 27.47 ACRES.
 SUBJECT TO A 33.0 FOOT WIDE RIGHT-OF-WAY OVER THE SOUTH 33.0 FEET OF THE ABOVE DESCRIBED PARCEL OF GROUND RECORDED AS ENTRY NO. 37809 IN THE FILES OF THE BOX ELDER COUNTY RECORDER.

PARCEL NO. 2
 A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.
 BEGINNING AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 38 LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 655.24 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;
 RUNNING THENCE SOUTH 87°02'14" WEST 597.52 FEET; THENCE NORTH 06°16'25" WEST 384.09 FEET TO THE SOUTH BOUNDARY LINE OF THE ROBERT JENSEN PROPERTY, TAX ID. NO. 04-034-0007 BEING AN EXISTING FENCE LINE; THENCE NORTH 85°58'18" EAST 633.18 FEET ALONG SAID SOUTH BOUNDARY LINE AND FENCE LINE TO THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 38; THENCE SOUTH 01°01'32" EAST 395.45 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING. CONTAINING 5.50 ACRES.

PARCEL NO. 3
 A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.
 BEGINNING AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 38 BEING AN EXISTING FENCE LINE LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 54.83 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;
 RUNNING THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES; (1) SOUTH 01°01'32" EAST 128.30 FEET; AND (2) TO THE LEFT ALONG THE ARC OF A 1465.70 FOOT RADIUS CURVE, A DISTANCE OF 116.04 FEET, CHORD BEARS SOUTH 03°17'36" EAST 116.01 FEET, HAVING A CENTRAL ANGLE OF 04°32'09" TO THE NORTH BOUNDARY OF THE CASEY MITCHELL PROPERTY, TAX ID. NO. 04-034-0013; THENCE ALONG THE NORTH BOUNDARY LINE OF SAID MITCHELL PROPERTY AND THEN SHELTON BLACK PROPERTY, TAX ID. NO. 04-034-0024 SOUTH 89°02'43" WEST (SOUTH 88°58'30" WEST BY RECORD) 436.10 FEET; THENCE SOUTH 88°13'13" WEST (SOUTH 88°09" WEST BY RECORD) 136.87 FEET; THENCE NORTH 09°02'19" WEST 227.40 FEET; THENCE NORTH 87°02'14" EAST 600.41 FEET TO THE POINT OF BEGINNING.

EASEMENT "A"
 A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.
 BEGINNING AT A POINT LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 54.83 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;
 RUNNING THENCE SOUTH 09°02'19" EAST 227.40 FEET TO THE NORTH BOUNDARY LINE OF THE SHELTON BLACK PROPERTY, TAX ID. NO. 04-034-0024; THENCE SOUTH 88°13'13" WEST (SOUTH 88°09" WEST BY RECORD) 60.04 FEET ALONG SAID NORTH BOUNDARY LINE; THENCE NORTH 02°06'09" WEST 136.87 FEET; THENCE NORTH 86°31'58" EAST 32.60 FEET TO THE POINT OF BEGINNING.



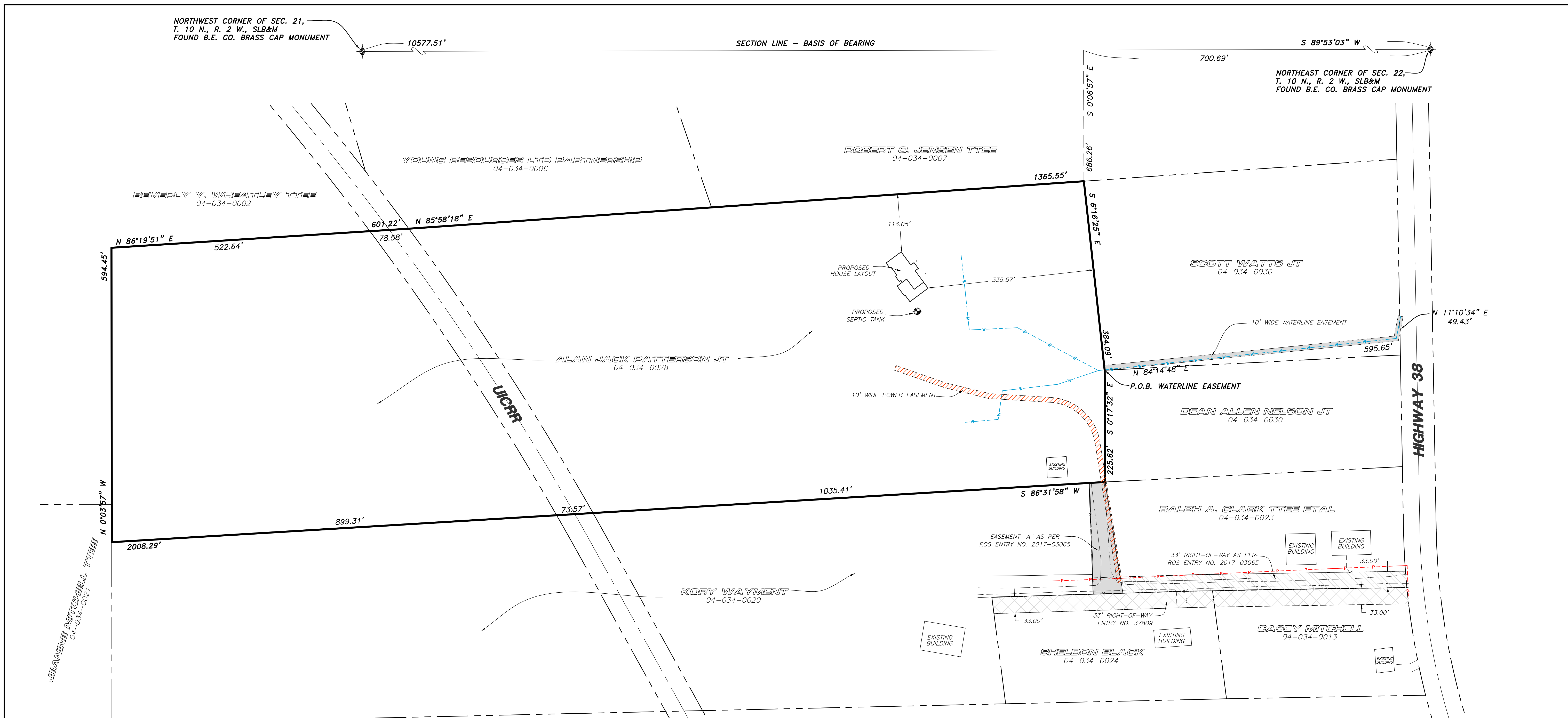
SURVEYOR'S CERTIFICATE

I, K. Greg Hansen, do hereby certify that I am a Registered Professional Land Surveyor in the State of Utah in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Act; and by the Authority of the Owners, I have Completed a Survey of the Property Described and shown Hereon this Plat in Accordance with Section 17-23-17 and have Verified all Measurements, and that the same has been Surveyed and Monuments have been Located and/or Placed on the Ground as Represented on the Plat Hereon.
 Signed this ____ day of _____, 2016.



K. Greg Hansen PLS
 Utah Land Surveyor License No. 167819

Drawn By: kgh Date: 05/28/15 Designed By: Checked By: Approved By: Scale: 1" = 100' Drawing File: 15-3-96/15 JOB NUMBER: 15-3-96	
Property Survey for Jack Patterson 4575 North Highway 38 Harper Ward, Box Elder County, Utah A Part of the Northeast Quarter of Section 22, Township 10 North, Range 2 West, S.L.B.&M.	
Hansen & Associates, Inc. Consulting Engineers and Land Surveyors 538 North Main Street, Brigham, Utah 84302 Visit us at www.hansen.net Ogden (435) 399-4905 (435) 723-3491	No. 1 Date By Updated per Jack's instructions Updated per Jack's instructions
Sheet 1 of 1 Sheets	



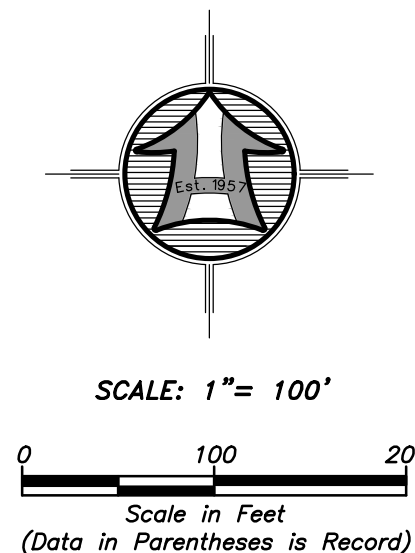
10' WIDE WATERLINE EASEMENT DESCRIPTION

A 10.00 FOOT WIDE WATERLINE EASEMENT BEING 10.00 FEET LEFT OF THE FOLLOWING DESCRIBED ALIGNMENT SITUATED IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTHWEST CORNER OF THE SCOTT WATTS JT PROPERTY, TAX ID. NO. 04-034-0030 LOCATED 700.69 FEET SOUTH 89°53'03" WEST ALONG THE NORTH LINE OF SAID SECTION AND 686.26 FEET SOUTH 00°06'57" EAST TO THE NORTHWEST CORNER OF SAID SCOTT WATTS JT PROPERTY AND 384.09 FEET SOUTH 06°16'25" EAST ALONG THE WEST LINE OF SAID SCOTT WATTS JT PROPERTY FROM THE NORTHEAST CORNER OF SAID SECTION 22;

RUNNING THENCE NORTH 84°14'48" EAST 595.65 FEET; THENCE NORTH 11°10'34" EAST 49.43 FEET TO THE WEST RIGHT-OF-WAY LINE OF HIGHWAY 38 AND THE POINT OF TERMINUS.

- LEGEND**
- SUBJECT PROPERTY LINE
 - - - ADJOINING PROPERTY LINE
 - - - PREVIOUS PROPERTY LINE
 - - - CENTERLINE
 - - - EASEMENT
 - - - EXISTING WATER LINE
 - - - EXISTING POWER LINE
 - - - FENCE LINE
 - - - EXISTING GRAVEL ROAD
 - ⊙ PROPOSED SEPTIC TANK LOCATION
 - ⊙ FOUND REBAR SET BY OTHERS
 - ⊙ SET 5/8"X24" REBAR WITH CAP
 - ⊙ SECTION CORNER

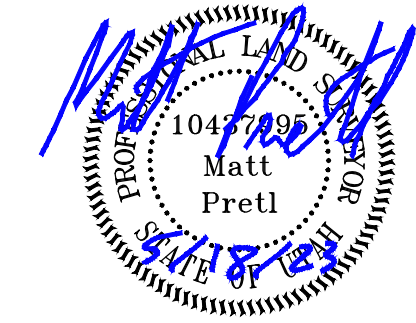


SURVEYOR'S CERTIFICATE

I, MATT PRETL DO HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH TITLE 5B, CHAPTER 22, PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS ACT; AND BY THE AUTHORITY OF THE OWNERS, I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED AND SHOWN HEREON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS, AND THAT THE SAME HAS BEEN SURVEYED AND MONUMENTS HAVE BEEN LOCATED AND/OR PLACED ON THE GROUND AS REPRESENTED ON THE PLAT HEREON.

SIGNED THIS 18TH DAY OF MAY, 2023.

MATT PRETL, PLS
UTAH LAND SURVEYOR LICENSE NO. 10437995



Drawn By: MP Date: 5/18/2023
 Designed By: RS
 Checked By: RS
 Approved By: [Signature]
 Scale: 1" = 100'
 Drawing File: 23-3-21v198
 JOB NUMBER: 23-3-21

HANSEN & ASSOCIATES, INC.
 Consulting Engineers and Land Surveyors
 538 North Main Street, Brigham, Utah 84302
 Visit us at www.hailes.net
 Logan Ogden
 Brigham City (435) 723-3491 (801) 399-4905 (435) 752-8272
 Celebrating over 65 Years of Business

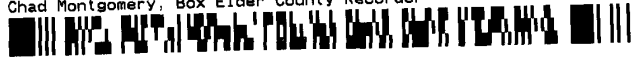
HAI

SITE LAYOUT FOR
ALAN JACK PATTERSON
 4583 N HWY 38
 BRIGHAM CITY, BOX ELDER COUNTY, UTAH
 A PART OF THE NORTHEAST QUARTER OF SECTION 22
 TOWNSHIP 10 NORTH, RANGE 2 WEST, S.L.B.&M.

Sheet
1
 of
1
 Sheets

WHEN RECORDED MAIL TO:
ALAN JACK PATTERSON
2068 WEST 2300 NORTH
CLINTON, UTAH 84015

Entry No. 366170 WARRANTY DEED
12/27/2016 02:09:13 PM B: 1297 P: 1113 Pages: 3
FEE \$14.00 BY PHILLIPS-HANSEN LAND TITLE CO.
Chad Montgomery, Box Elder County Recorder



SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY _____
RECORDED AT THE REQUEST OF PHILLIPS-HANSEN LAND TITLE COMPANY ORDER # PH 14416
MAIL TAX NOTICE TO: ALAN JACK PATTERSON
2068 WEST 2300 NORTH, CLINTON, UTAH 84015

WARRANTY DEED

**ALAN JACK PATTERSON AND TERESA PATTERSON
SCOTT T. WATTS AND HEATHER W. WATTS
DEAN ALLEN NELSON AND EMILY LYNN NELSON
RALPH A. CLARK AND DEEANN CLARK, Trustees of The Ralph A. Clark and DeeAnn Clark Family Trust,
dated the 27th day of July 2005**

GRANTORS

OF BRIGHAM CITY, COUNTY OF BOX ELDER, STATE OF UTAH
HEREBY CONVEY AND WARRANT TO

ALAN JACK PATTERSON AND TERESA PATTERSON, HUSBAND AND WIFE AS JOINT TENANTS.
GRANTEES

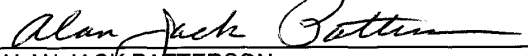
OF CLINTON, COUNTY OF WEBER, STATE OF UTAH
FOR THE SUM OF TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION,
THE FOLLOWING DESCRIBED TRACT OF LAND IN BOX ELDER COUNTY, STATE OF UTAH:

**See Attached Exhibit "A"
THIS DEED DONE AS A LOT LINE ADJUSTMENT AS PER A HANSEN AND ASSOCIATES SURVEY
NUMBER 15-3-96.**

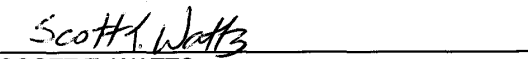
SUBJECT TO EASEMENTS, RESTRICTIONS, ENCUMBRANCES AND RIGHTS OF WAY OF RECORD, AND
TAXES FOR THE YEAR 2016 AND THEREAFTER.

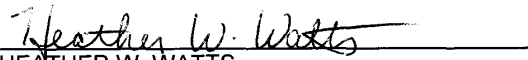
WITNESS, THE HANDS OF SAID GRANTORS, THIS 30TH DAY OF AUGUST, 2016

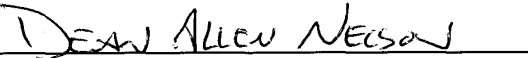
04-034-00008, 0011, 0025 < 04-034-0028, 0029, 0030



ALAN JACK PATTERSON



TERESA PATTERSON


SCOTT T. WATTS


HEATHER W. WATTS


DEAN ALLEN NELSON


EMILY LYNN NELSON


RALPH A. CLARK, TRUSTEE

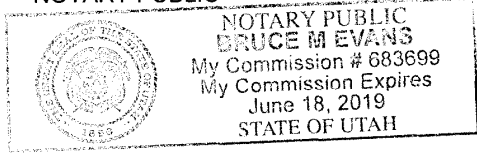

DEEANN CLARK, TRUSTEE

STATE OF UTAH)
 :SS
COUNTY OF BOX ELDER)

ON THIS 20th DAY OF DECEMBER, 2016, PERSONALLY APPEARED BEFORE ME, ALAN JACK PATTERSON AND TERESA PATTERSON , THE SIGNERS OF THE WITHIN INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.



NOTARY PUBLIC

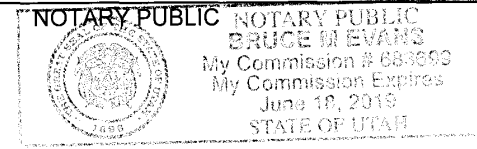


STATE OF UTAH)
 :SS
COUNTY OF BOX ELDER)

ON THIS 20th DAY OF DECEMBER, 2016, PERSONALLY APPEARED BEFORE ME, SCOTT T. WATTS AND HEATHER W. WATTS , THE SIGNERS OF THE WITHIN INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.



NOTARY PUBLIC



STATE OF UTAH)
 :SS
COUNTY OF BOX ELDER)

ON THIS 20th DAY OF DECEMBER, 2016, PERSONALLY APPEARED BEFORE ME, DEAN ALLEN NELSON AND EMILY LYNN NELSON, THE SIGNERS OF THE WITHIN INSTRUMENT, WHO DULY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

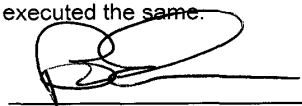


NOTARY PUBLIC



STATE OF UTAH)
) ss
COUNTY OF BOX ELDER)

On the ____ day of September, A.D. 2016, personally appeared before me RALPH A. CLARK AND DEEANN CLARK, who, being by me duly sworn, did say that they are the Trustees of the THE RALPH A. CLARK AND DEEANN CLARK FAMILY TRUST, dated the 27th day of July, 2005 and that the said instrument was signed in behalf of said Trust by authority of said Trust Agreement and the aforesaid RALPH A. CLARK AND DEEANN CLARK acknowledged to me that said Trust executed the same.



Notary Public



EXHIBIT "A"

PARCEL NO. 1 04-034-0028

A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 655.24 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;

RUNNING THENCE SOUTH 86°31'58" WEST 2008.29 FEET TO THE WEST LINE OF THE EAST HALF OF SAID SECTION 22; THENCE NORTH 00°03'57" WEST 594.45 FEET ALONG SAID WEST LINE TO THE SOUTH BOUNDARY LINE OF THE J. CALVIN WHEATLEY PROPERTY, TAX ID. NO. 04-034-0002; THENCE NORTH 86°19'51" EAST (NORTH 88°51' EAST BY RECORD) 601.23 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE BOX ELDER COUNTY PROPERTY BEING THE ABANDONED U.I.C.R.R. AND A POINT ON AN EXISTING EAST - WEST FENCE LINE; THENCE ALONG SAID FENCE LINE NORTH 85°58'18" EAST 1365.55 FEET; THENCE SOUTH 06°16'25" EAST 384.09 FEET; THENCE SOUTH 00°17'32" EAST 225.62 FEET; TO THE POINT OF BEGINNING. CONTAINING 27.47 ACRES.

SUBJECT TO A 33.0 FOOT WIDE RIGHT-OF-WAY OVER THE SOUTH 33.0 FEET OF THE ABOVE DESCRIBED PARCEL OF GROUND RECORDED AS ENTRY NO. 37809 IN THE FILES OF THE BOX ELDER COUNTY RECORDER.

RIGHT OF WAY AFFECTS PARCEL 04-034-0023

TOGETHER WITH EASEMENT "A" FROM CLARK TO PATTERSON

A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 655.24 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;

RUNNING THENCE SOUTH 09°02'19" EAST 227.40 FEET TO THE NORTH BOUNDARY LINE OF THE SHELDON BLACK PROPERTY, TAX ID. NO. 04-034-0024; THENCE SOUTH 88°13'13" WEST (SOUTH 88°09' WEST BY RECORD) 60.04 FEET ALONG SAID NORTH BOUNDARY LINE; THENCE NORTH 02°06'09" WEST 224.62 FEET; THENCE NORTH 86°31'58" EAST 32.60 FEET TO THE POINT OF BEGINNING.

RIGHT OF WAY AFFECTS PARCEL 04-034-0023

33.00 FOOT WIDE EASEMENT FROM CLARK TO PATTERSON

A 33.00' WIDE RIGHT-OF-WAY OVER THE SOUTH 33.00 FEET OF THE FOLLOWING DESCRIBED PARCEL OF GROUND:

A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 38 BEING AN EXISTING FENCE LINE LOCATED 1261.21 FEET SOUTH 00°04'56" WEST ALONG THE EAST LINE OF SAID SECTION AND 54.83 FEET SOUTH 87°02'14" WEST FROM THE NORTHEAST CORNER OF SAID SECTION 22;

RUNNING THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES; (1) SOUTH 01°01'32" EAST 128.30 FEET; AND (2) TO THE LEFT ALONG THE ARC OF A 1465.70 FOOT RADIUS CURVE, A DISTANCE OF 116.04 FEET, CHORD BEARS SOUTH 03°17'36" EAST 116.01 FEET, HAVING A CENTRAL ANGLE OF 04°32'09" TO THE NORTH BOUNDARY OF THE CASEY MITCHELL PROPERTY, TAX ID NO. 04-034-0013; THENCE ALONG THE NORTH BOUNDARY LINE OF SAID MITCHELL PROPERTY AND THEN SHELDON BLACK PROPERTY, TAX ID NO. 04-034-0024 SOUTH 89°02'43" WEST (SOUTH 88°58'30" WEST BY RECORD) 436.10 FEET; THENCE SOUTH 88°13'13" WEST (SOUTH 88°09' WEST BY RECORD) 136.87 FEET; THENCE NORTH 09°02'19" WEST 227.40 FEET; THENCE NORTH 87°02'14" EAST 600.41 FEET TO THE POINT OF BEGINNING.