

1. March 3, 2020 - Agenda

Documents:

[030320.AA.AGENDA.COURTESY.PDF](#)

2. March 3, 2020 - Packet

Documents:

[KIN-15 VARIANCE.PDF](#)  
[LEE VARIANCE - 2020.PDF](#)



118 Lion Blvd ◦ PO Box 187 ◦ Springdale, UT 84767 ◦ (435) 772-3434

## **SPRINGDALE APPEAL AUTHORITY NOTICE AND AGENDA**

**THE TOWN OF SPRINGDALE ADMINISTRATIVE HEARING OFFICER, ACTING AS THE APPEAL AUTHORITY,  
WILL HOLD A PUBLIC HEARING ON TUESDAY MARCH 3, 2020 AT 10:00 AM,  
AT SPRINGDALE TOWN HALL, 118 LION BOULEVARD, SPRINGDALE, UTAH**

**A. New Business:**

1. Variance: Request to reduce the front setback on parcel S-KIN-B-15 in the FR zone - Ihnsouk Guim.
2. Variance: Request to reduce the side setback adjacent to a residential zone on parcel S-BIT-1-A in the VC zone - Ryan Lee.

**B. Adjourn**

*This notice is provided as a courtesy to the community and is not the official notice for this meeting/hearing. This notice is not required by town ordinance or policy. Failure of the Town to provide this notice or failure of a property owner, resident, or other interested party to receive this notice does not constitute a violation of the Town's noticing requirements or policies.*

The Town of Springdale complies with the Americans with Disabilities Act by providing accommodations and auxiliary communicative aids and services for all those citizens in need of assistance. Persons requesting these accommodations for Town-sponsored public meetings, services, programs, or events should call Springdale Town Clerk Darci Carlson at 435-772-3434 at least 24 hours before the meeting.

Packet materials for agenda items will be available by February 28<sup>th</sup> at: <http://www.springdaletown.com/AgendaCenter>



**Memorandum**

**To:** Ken Sizemore, Administrative Hearing Officer  
**From:** Sophie Frankenburg, Associate Planner  
**Date:** February 25, 2020  
**Re:** Variance Request: Ihnsouk Guim, S-KIN-B-15, 101 Parunuweap Cir  
Front Setback Reduction (section 10-9A-8)

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**Overview**

The subject property is located on Parunuweap Circle on Lot 15 of the Kinesava Ranch Subdivision. The property is currently being developed with a single-family residence and detached garage. The developable portion of the lot sits on a narrow ridge that is constrained by multiple features: steep slopes, large boulders, existing mature vegetation. Due to the lot’s location on a narrow ridge, development on the lot will be highly visible from surrounding properties, as well as the community in general.

The applicant is proposing a single car garage at the front of the property. In order to meet the required front setback (20-feet) the applicant would have to excavate into a hillside, possibly creating a more visually impactful build and disturbance on sensitive land. The applicant is requesting a reduction in the front setback from 20 feet to 10 feet in order to accommodate the detached garage without disturbing the hillside behind the garage.

The subject property is located in the FR zone. Development on the property is further regulated by a Special Exception Permit which modifies many of the development standards of the FR zone.

**Applicable Code Sections and Documents**

The Hearing Officer may wish to review the following code sections and documents prior to the meeting:

- 1- 10-3-3: Variances
- 2- 10-9A: Foothill Residential Zone
- 3- Kinesava Special Exception Permit (specifically Section 5, Pages 10-12 Lot #15)

**Background Details**

Front Setback Requirement

The FR zone requires an average of all yards on each lot or parcel to be 30-foot, with no single setback being less than 20 feet (see section 10-9A-8).

Variance Request: Reduced front Setback Requirement

The applicant is requesting a variance to reduce the front yard setback from 20 feet to 10 feet.

Property Details

The property is located on the west side of SR-9, in the Kinesava Ranch Subdivision in the Foothill Residential zone. The property is approximately 1.02 acres in size. However, most of the property is steep sloping topography (slopes in excess of 30% grade). Only a small portion of the property (approximately 3,000 SF) is not located on steep slopes.

All lots in the Kinesava Subdivision are regulated by a Special Exception Permit on top of the underlying zoning regulations. The Kinesava Subdivision was platted in 1987 and was based on the zoning regulations in place at that time. The Town adopted a new Zoning Ordinance in 1992. The new ordinance made the construction of residential homes on prior created lots in Kinesava difficult or impossible, given the size, configuration, and location of the lots in the subdivision. The Special Exception Permit made lot by lot modifications to the FR zone development standards for the subdivision. It is to be used as the guiding standards for development on Kinesava subdivision lots, and when silent the underlying current FR zone regulations for development are to be complied with.

The Special Exception Permit requires the building pad on Lot 15 to be limited on the southeast by 18 feet measured due northwest from a yellow cap survey pin existing on the ridge. The pad is also limited to the northwest by both a boulder residing on the southwest slope and by a large rock adjacent to and southeast of prominent juniper trees. The driveway access is to extend further northwest. These limitations on the building pad are to reduce the visual impacts of development on this lot.

Due to this lot's high visibility the applicant decided to detach the garage from the house to reduce building mass, ultimately reducing the view obstruction from surrounding properties. Detaching the garage also preserves the natural slope of the terrain and limits the amount of excavation that would be necessary if the garage were attached to the house. In doing this, the applicant discovered the front setback pushes the garage into a natural mound with large boulders and mature trees that will have to be removed in order to accommodate this setback. The garage is measured at approximately 260 SF and situated eight (8) feet lower than the residence, with a 40-foot walkway to the home.

The applicant has made many alterations throughout the design process to comply with the Kinesava Special Exception Permit and current zoning ordinances. The detached garage has been reduced in size since the original design and modified to try to accommodate the mound at the front of the property. Due to the many regulations on this lot the applicant feels she has exhausted all options to come into compliance with the 20-foot setback leading her to requesting a reduction in the front setback from 20 feet to 10 feet.

#### Variance History in the Area

The property north of the subject property, Lot 25, is developed with a single-family residence and is located in the Foothill Residential Zone. This property does not contain as many constraints as lot 15, however the residence was granted a variance to the rear yard setback to allow preservation of two mature Juniper trees on the property. The variance to reduce the rear setback was granted in 1994.

Minutes of the Board of Adjustment meeting where this variance was approved is attached to this report.

#### **Maps**

The following page contain maps of the subject property and surrounding area.

MAP 1 – Subject property outlined in blue.







**TOWN OF SPRINGDALE**

118 Lion Blvd PO Box 187 Springdale UT 84767 435-772-3434 fax 435-772-3952

**APPLICATION FOR VARIANCE**

FOR OFFICIAL USE ONLY	File # _____
Brief Description of Project: _____	
Application Date: _____ Completed File Date: _____ Review Date: _____	
Notes: _____	
Authorization: _____ Revised 02/05	

Application is hereby made to the Board of Adjustment of Springdale, Utah for a variance pursuant to Section 10-3-3 of the Springdale Town Code for the following:

APPLICANT INFORMATION:

Name: \_\_\_\_\_  
Street \_\_\_\_\_  
Address: \_\_\_\_\_  
Mailing \_\_\_\_\_  
Address: \_\_\_\_\_  
Email \_\_\_\_\_  
Address: \_\_\_\_\_  
Phones \_\_\_\_\_  
(Home) \_\_\_\_\_ (Cell) \_\_\_\_\_ (Fax) \_\_\_\_\_ (Business) \_\_\_\_\_

SITE INFORMATION

Project Address: \_\_\_\_\_  
Tax Code Number: \_\_\_\_\_ Zone: \_\_\_\_\_

APPLICATION FEE

Non-refundable fee of \$800.00 must be paid to the Town at the time this application is filed.

VARIANCE DESCRIPTION

Code section from which variance is requested: \_\_\_\_\_

Please describe the nature of the variance request: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VARIANCE STANDARDS

The board of adjustment may grant a variance only if all of the following criteria have been met (reference sections 10-3-3-B through 10-3-3-F for further clarification of the standards):

1. Literal enforcement of the provisions of this title will result in unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;
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 a substantial property right possessed by other property in the same district;
4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
5. The spirit of this title is observed and substantial justice done.

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Please describe in detail how the requested variance relates to these five standards (use additional paper if necessary).

How will the literal enforcement of the provisions of the Town Code result in unreasonable hardship that is not necessary to carry out the general purpose of the Code? \_\_\_\_\_

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What are the special circumstances attached to the property that do not generally apply to other properties in the same district? \_\_\_\_\_

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How will granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district? \_\_\_\_\_

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Why will the variance will not substantially affect the general plan and not be contrary to the public interest? \_\_\_\_\_

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How will the spirit of this title be observed and substantial justice done? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REQUIRED INFORMATION

The following items must be submitted before the variance request will be scheduled for public hearing:

- A. A copy of the surveyed legal description of the property in question.
- B. A statement certifying that the applicant is the legal owner of the property in question, or a letter from the legal owner certifying that the applicant is authorized to apply for the variance and represent the owner.
- C. All plats, plans, drawings, to scale, showing the location, dimensions, and materials of all buildings and structures, streets, vehicle circulation patterns, parking, landscape and open space areas, signs and/or other information as appropriate to the application.

VARIANCE PROCESS

Upon submission of a complete application, the Board of Adjustment will schedule a public hearing to consider the variance request in accordance with section 10-3-1 of the Springdale Town Code. At the hearing the Board may grant, grant with conditions, deny, or continue the variance request.

Variance approvals lapse after one year unless a building permit is issued and construction diligently pursued toward completion of the subject of the variance, or a permit is issued authorizing the subject of the variance, or the site is occupied if no building permit or certificate of occupancy is required.

APPLICANT CERTIFICATION

I certify that the information contained in this application is true and correct.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## INTRODUCTION

I am applying for a variance for a new build on Lot #15 in Kinesava Ranch. It is a high visibility site on narrow and steep terrain that had to meet many regulations. We have complied with all the rules so far, and have a design that limits the visual impact as well as minimizing disturbance to the land. In the plan, the garage is detached and sits low near the road. I think a detached garage is the right choice for the site. The build looks smaller, resulting in less visual impact, and also minimizes obstruction of the view. In addition, there is no need for a driveway leading to the house that would interrupt natural progression of the terrain. It is a modest sized garage suitable for a single mid size car.

To meet the 20' setback requirement to build the garage, we would unfortunately have to excavate into the small hillside in the back, which would negate some of the reasons we planned to have a detached garage. In this application, I would like to request an adjustment of the setback to 10' from 20'. With the adjustment, the undisturbed land will stay undisturbed. There is a 9'-10' wide easement between the road and the property line. If 10' setback is granted, the garage will be built 20' away from the road. There are no immediate neighbors where the garage is planned. I expect the impact of the change to the neighborhood will be minimal.

***1. How will the literal enforcement of the provisions of the Town Code result in unreasonable hardship that is not necessary to carry out the general purpose of the Code?***

Meeting the 20' setback for the detached garage would disturb the previously untouched terrain. It is a gently sloping mound with plants and rocks that have been left undisturbed. It adds to the site and looks harmonious with its surroundings. I am attaching a picture in the first attachment showing the mound. The black line marks where the garage will cut in to meet the 20' setback. The yellow line denotes the garage with a 10' setback. The site plan drawing is also attached, indicating the garage if the variance is granted. The garage can't get smaller. Its interior dimension is 13' by 20', enough for a single mid-size car, and 4' by 12' storage for bicycles and skis.

***2. What are the special circumstances attached to the property that do not generally apply to other properties in the same district?***

The site is subject to many regulations due to its terrain and high visibility. Their purpose is to ensure minimal impact physically and visually. They limit disturbances to the land and encourage designs to blend in with the land. The site is also small and narrow limiting choices as to where the house and the garage can be built. The location proposed in the plan is the only option for a detached garage. If the garage is attached to the house, the house will look bigger, the view for the neighbors will be obstructed and the driveway leading to the garage will interfere with natural flow of the terrain. It will make a long walk to the house. It is an inconvenience I am willing to bear to keep the integrity of the landscape.

***3. How will granting the variance be essential to the enjoyment of a substantial property right possessed by other property in***

***the same district?***

As mentioned in 2, because it will be located away from the house, a detached garage will help the house appear smaller. It will sit off to the side minimizing obstruction of the view. It will avoid having a driveway leading to the house, as an attached garage would require, helping to maintain the terrain closer to its natural state. All of these will benefit other property owners by lessening the impact of a new build;The build will be better integrated into its surroundings;It will limit obstruction of the view;The integrity of the land will be less interrupted. If the variance is granted, it will further contribute to preserving the land. The small mound will stay untouched. It is plainly visible to others. It will be part of the scenery rather than a disrupted landscape by a new build.

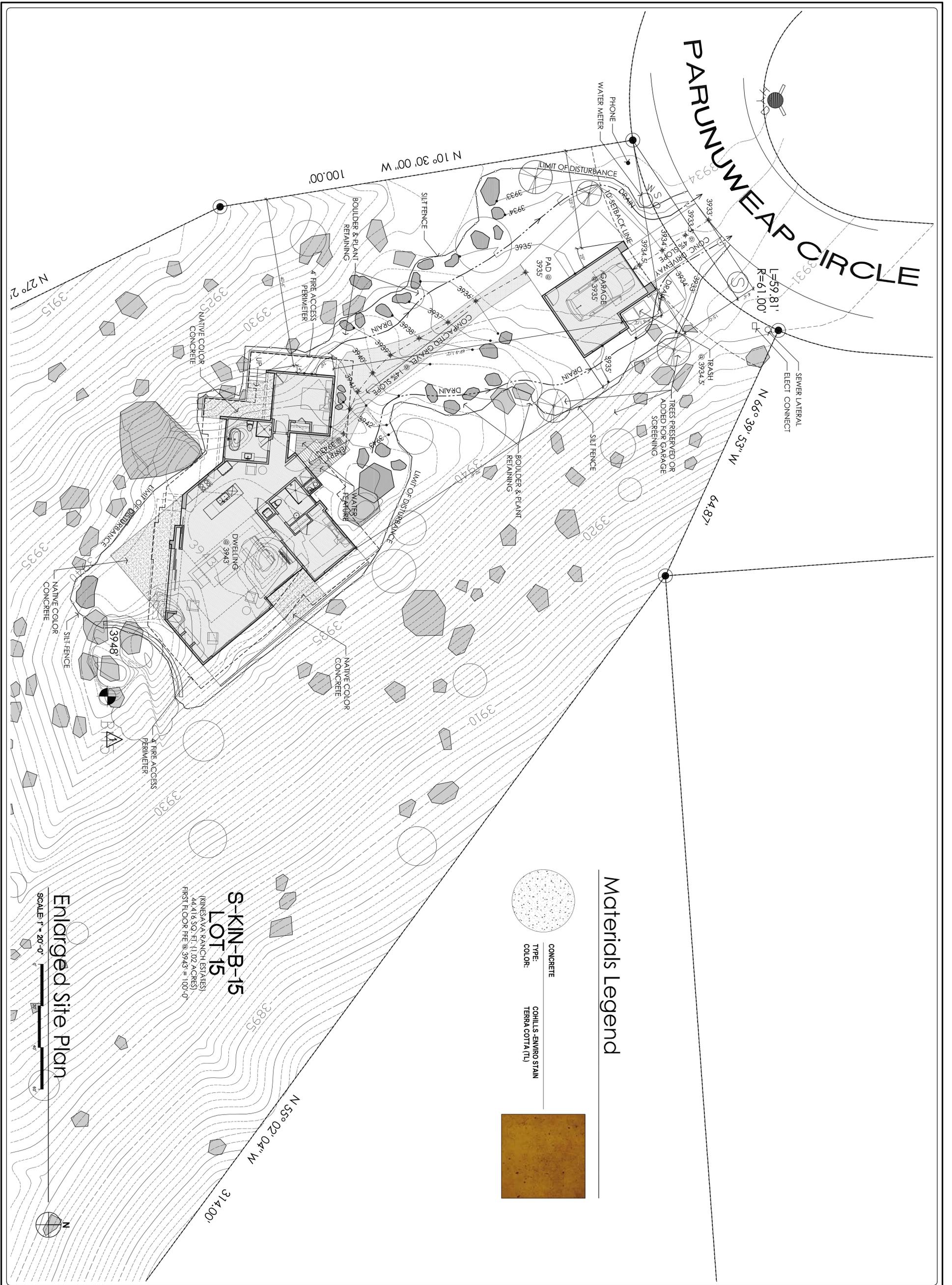
***4. How will the variance not substantially affect the general plan and not be contrary to the public interest?***

I am attaching the plat plan of the subdivision. It shows decent easement between the road and Lot #15 where we are building. The garage will be located on the northeast corner. There are no other adjoining properties at the corner. The adjacent land to the side is owned by the HOA and the lot on the other side of the road, #17, is unbuildable and owned by the Town. I think reducing the setback will not affect the general plan substantially.

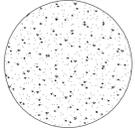
***5. How will the spirit of this title be observed and substantial justice done?***

I feel that preserving the land will be more in line with the spirit of what the code intended. In this case, literally applying the code conflicts with preserving the land. I am trying to fit a modest sized garage into the space and avoid unnecessary disturbance. Given

the comfortable easement at the site, I think reducing the set back is a fair trade-off in exchange for preserving the land.



Materials Legend



CONCRETE  
TYPE:  
COLOR:



COHILL'S ENVIRO STAIN  
TERRA COTTA (TU)

**S-KIN-B-15  
LOT 15**  
(KINESAVA RANCH ESTATES)  
44.416 SQ. FT. (1.02 ACRES)  
FIRST FLOOR FFE @ 3943' = 100'-0"

Enlarged Site Plan

SCALE: 1" = 20'-0"



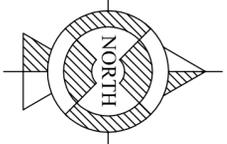
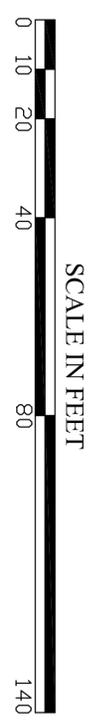
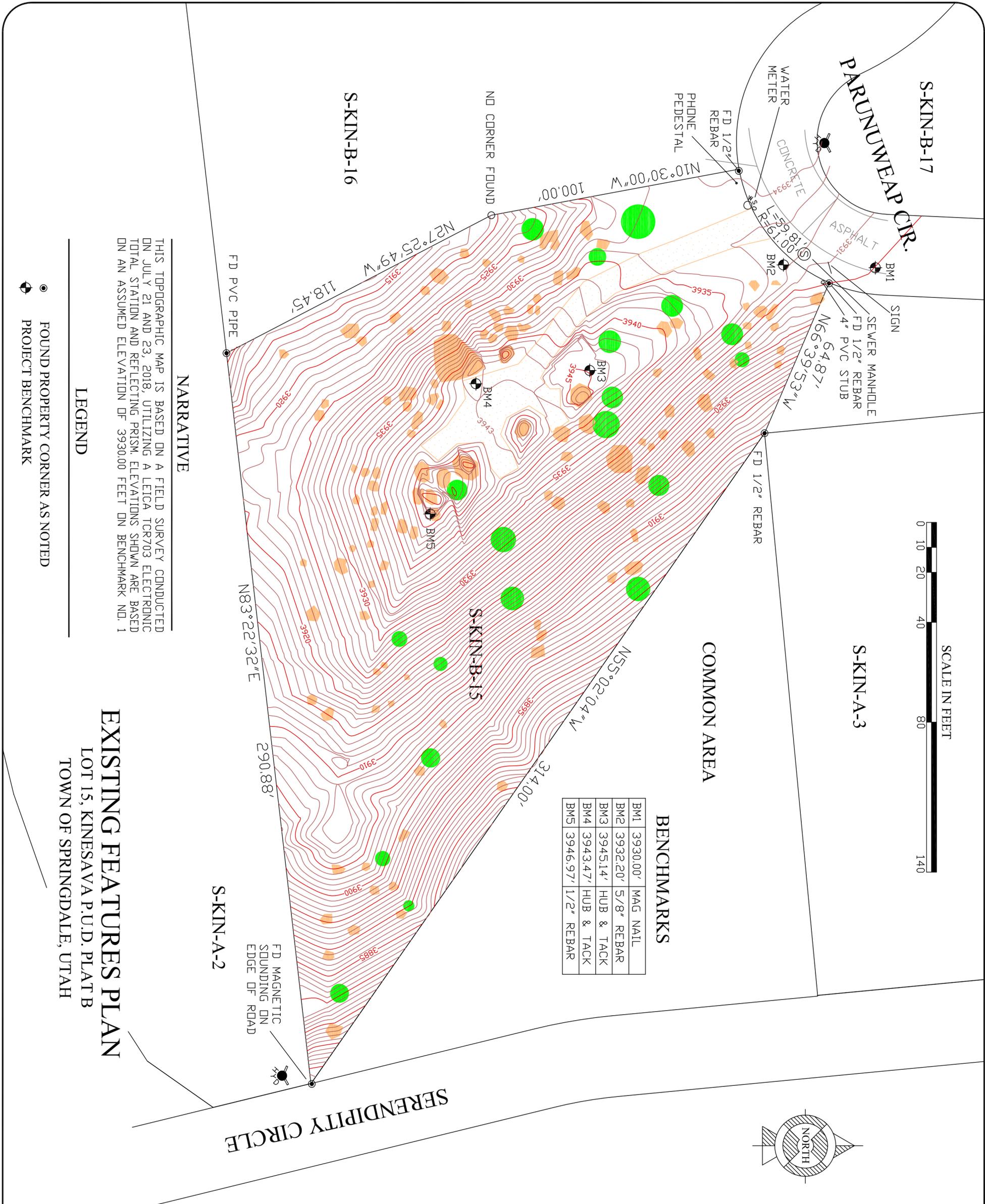
Sheet No.	
ENLARGED SITE PLAN	
Tax Map Key:	
Job no. KR15	

Revisions
REVISED 10/13/19 REVISED 1/30/20

Notes

Project Info.
<h1>CUSTOM RESIDENCE FOR IHNSOUK GUIM</h1>
KINESAVA RANCH LOT #15 SPRINGDALE, UT 84767 PERMIT SET 6.14.19.

Building Square Footage	
First Floor	1684
Total Living Area	1684
Total Covered Area	1975
Loft Floor	140
Garage	361
Build Coverage Area	5%



**BENCHMARKS**

BM1	3930.00'	MAG NAIL
BM2	3932.20'	5/8" REBAR
BM3	3945.14'	HUB & TACK
BM4	3943.47'	HUB & TACK
BM5	3946.97'	1/2" REBAR

**NARRATIVE**

THIS TOPOGRAPHIC MAP IS BASED ON A FIELD SURVEY CONDUCTED ON JULY 21 AND 23, 2018, UTILIZING A LEICA TOR703 ELECTRONIC TOTAL STATION AND REFLECTING PRISM. ELEVATIONS SHOWN ARE BASED ON AN ASSUMED ELEVATION OF 3930.00 FEET ON BENCHMARK ND. 1

**LEGEND**

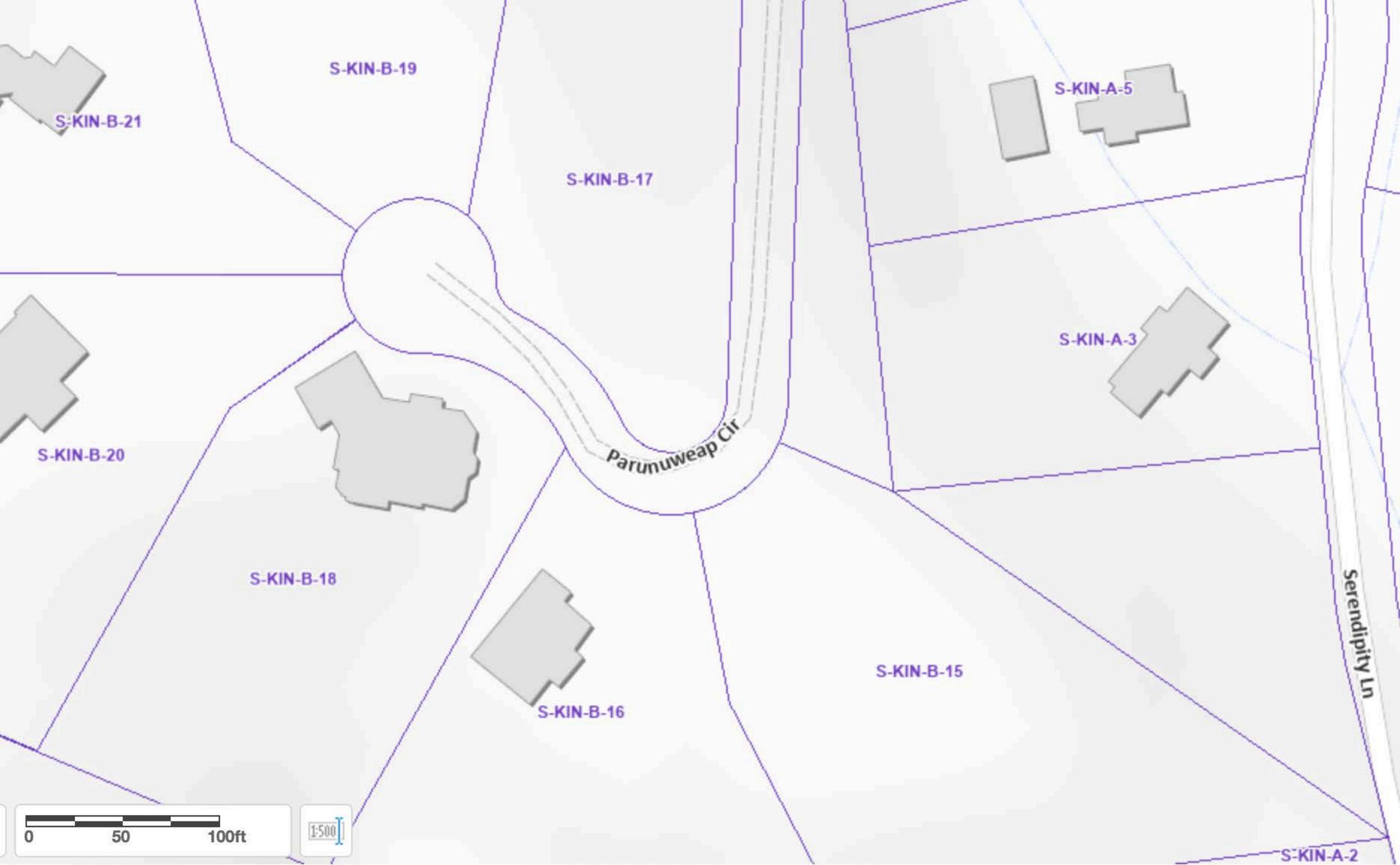
- FOUND PROPERTY CORNER AS NOTED
- ⊕ PROJECT BENCHMARK

**EXISTING FEATURES PLAN**  
 LOT 15, KINESAVA P.U.D. PLAT B  
 TOWN OF SPRINGDALE, UTAH

JULY 2018	<b>SURVEY FOR IHNSOUK GUIM</b> LOCATED WITHIN THE SW 1/4 OF SECTION 32 TOWNSHIP 41 SOUTH, RANGE 10 WEST SALT LAKE BASE AND MERIDIAN	<b>MARK A. SCHRAUT</b> PROFESSIONAL LAND SURVEYOR 100 NORTH FORK DRIVE SPRINGDALE UT 84767 PH 435-772-3223
SHEET 1 OF 1		







**When recorded mail deed and tax notice to:**

Ihnsouk Guim  
P O Box 345  
Springdale, UT 84767



Order No. 32845 - KV  
Tax I.D. No. S-KIN-B-15

Space Above This Line for Recorder's Use

**WARRANTY DEED**

**David Trockman**, grantor(s), of Salt Lake City, County of Salt Lake, State of Utah, hereby **CONVEY**  
and **WARRANT** to

**Ihnsouk Guim**, grantee(s) of Springdale, County of Washington, State of Utah, for the sum of TEN  
DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION the following described tract of land  
in Washington County, State of Utah:

**Lot Fifteen (15), KINESAVA RESIDENTIAL PLANNED UNIT DEVELOPMENT PLAT "B",  
according to the Official Plat thereof, on file in the Office of the Recorder of Washington  
County, State of Utah.**

**See Water Rights Addendum to Land Deeds attached hereto and made a part hereof**

TOGETHER WITH all improvements and appurtenances there unto belonging, and being SUBJECT TO  
easements, rights of way, restrictions, and reservations of record and those enforceable in law and  
equity.

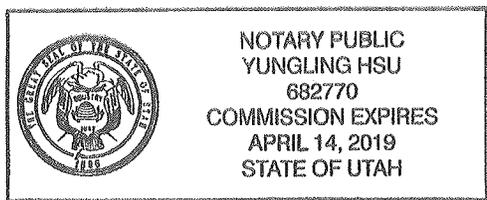
WITNESS the hand(s) of said grantor(s), this 12 day of July, 2018.

\_\_\_\_\_  
David Trockman

STATE OF Utah )  
 )  
:ss.  
COUNTY OF Salt Lake )

On the 12 day of July, 2018, personally appeared before me, David Trockman, the signer of the  
within instrument who duly acknowledged to me that he/she executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: 4-14-2019



**WATER RIGHTS ADDENDUM TO LAND DEEDS**

Grantor: David Trockman  
 Grantee: Ihnsouk Guim  
 Tax ID Number(s): S-KIN-B-15

In connection with the conveyance of the above referenced parcel(s), Grantor hereby conveys to Grantee without warranty, except for a warranty of title as to all claiming title by or through Grantor, the following interests in water and/or makes the following disclosures:

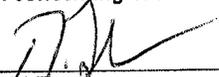
**Check one box only**

- |                                       |   |                      |
|---------------------------------------|---|----------------------|
| 1 <input type="checkbox"/>            | All of Grantor's water rights used on Grantor's Parcel(s) are being conveyed.   | Proceed to Section A |
| 2 <input type="checkbox"/>            | Only a portion of Grantor's water rights are being conveyed. (County Recorder should forward a copy of this form to the Utah Division of Water Rights if Box 1 or 2 above is checked) | B                    |
| 3 <input checked="" type="checkbox"/> | No water rights are being conveyed.   | C                    |
| 4 <input type="checkbox"/>            | Water rights are being conveyed by separate deed.   | C                    |

Section		Important Notes (see other side)
A	The water right(s) being conveyed included Water Right No(s) along with all applications pertaining to the water right(s) listed in this Section A, and all other appurtenant water rights (Proceed to Section C)	N1 N2 N3
B	Only the following water rights are being conveyed: (check all boxes that apply) <input type="checkbox"/> All of Water Rights No(s). <input type="checkbox"/> acre-feet from Water Right No. for: families acres of irrigated land: stock water for Equivalent Livestock Units; and/or for the following other uses <input type="checkbox"/> acre-feet from Water Right No. for: families acres of irrigated land: stock water for Equivalent Livestock Units; and/or for the following other uses Along with all applications pertaining to the water right(s) listed in this Section B. (Proceed to Section C)	N1 N4 N5  N5  N2
C	Disclosures By Grantor: (check all boxes that apply) <input type="checkbox"/> Grantor is endorsing and delivering To Grantee stock certificates for Shares stock in the following water company: <input type="checkbox"/> Culinary water service is provided by: <input type="checkbox"/> Outdoor water service is provided by: <input checked="" type="checkbox"/> There is no water service available to Grantor's Parcel(s). <input type="checkbox"/> Other water related disclosures:	N6  N7 N8 N9 N10

Attach and sign additional copies of this form if more space is needed.

*The undersigned acknowledge sole responsibility for the information contained herein even though they may have been assisted by employees of the Utah Division of Water Rights, real estate professionals, or other professionals, except to the extent that title insurance or a legal opinion concerning such information is obtained.*

Grantor's Signature:   
 David Trockman

Grantee's Acknowledgment of Receipt: \_\_\_\_\_  
 Ihnsouk Guim

Grantee's Address: P O Box 345 , Springdale, Utah 84767  
**NOTE: GRANTEE MUST KEEP A CURRENT ADDRESS ON FILE WITH THE UTAH DIVISION OF WATER RIGHTS.**

**WATER RIGHTS ADDENDUM TO LAND DEEDS**

Grantor: David Trockman  
 Grantee: Ihnsouk Gulm  
 Tax ID Number(s): S-KIN-B-15

In connection with the conveyance of the above referenced parcel(s), Grantor hereby conveys to Grantee without warranty, except for a warranty of title as to all claiming title by or through Grantor, the following interests in water and/or makes the following disclosures:

**Check one box only**

- 1  All of Grantor's water rights used on Grantor's Parcel(s) are being conveyed.
- 2  Only a portion of Grantor's water rights are being conveyed. (County Recorder should forward a copy of this form to the Utah Division of Water Rights if Box 1 or 2 above is checked)
- 3  No water rights are being conveyed.
- 4  Water rights are being conveyed by separate deed.

Proceed to Section  
 A  
 B  
 C  
 C

Important Notes  
 (see other side)

Section		
A	The water right(s) being conveyed included Water Right No(s) along with all applications pertaining to the water right(s) listed in this Section A, and all other appurtenant water rights (Proceed to Section C)	N1 N2 N3
B	Only the following water rights are being conveyed: (check all boxes that apply) <input type="checkbox"/> All of Water Rights No(s). <input type="checkbox"/> acre-feet from Water Right No. for: families acres of irrigated land: stock water for Equivalent Livestock Units; and/or for the following other uses <input type="checkbox"/> acre-feet from Water Right No. for: families acres of irrigated land: stock water for Equivalent Livestock Units; and/or for the following other uses Along with all applications pertaining to the water right(s) listed in this Section B. (Proceed to Section C)	N1 N4 N5 N5 N2
C	Disclosures By Grantor: (check all boxes that apply) <input type="checkbox"/> Grantor is endorsing and delivering To Grantee stock certificates for Shares stock in the following water company: <input type="checkbox"/> Culinary water service is provided by: <input type="checkbox"/> Outdoor water service is provided by: <input checked="" type="checkbox"/> There is no water service available to Grantor's Parcel(s). <input type="checkbox"/> Other water related disclosures:	N6 N7 N8 N9 N10

Attach and sign additional copies of this form if more space is needed.

*The undersigned acknowledge sole responsibility for the information contained herein even though they may have been assisted by employees of the Utah Division of Water Rights, real estate professionals, or other professionals, except to the extent that title insurance or a legal opinion concerning such information is obtained.*

Grantor's Signature:

David Trockman

Grantee's Acknowledgment of Receipt:

Ihnsouk Gulm

Grantee's Address: P O Box 345, Springdale, Utah 84767

**NOTE: GRANTEE MUST KEEP A CURRENT ADDRESS ON FILE WITH THE UTAH DIVISION OF WATER RIGHTS.**

### NOTES TO WATER RIGHTS ADDENDUM TO LAND DEEDS

Please read the following notes carefully in order to avoid problems and the possible loss of the water rights being conveyed in connection with this transaction.

**The mere purchase of a water right does not guarantee: (1) that the water right is in good standing with the Utah Division of Water Rights; (2) that the owner has clear title to the water right; (3) that the Division will recognize the ownership change; or (4) that the Division will approve any proposed changes or extensions regarding the water right. You are encouraged to conduct proper "due diligence" research into any water right before purchasing it.**

- N1 Once this Water Rights Addendum has been recorded at the County Recorder's Office, Grantee must prepare a "Report of Water Right Conveyance" or "ROC" (available from the Utah Division of Water Rights) and file it with the Utah Division of Water Rights in order to: (1) have the Division's records updated with current ownership and address information; (2) file any application on these water rights; and (3) receive notifications concerning deadlines and other essential information pertaining to these rights. **Failure to do so PROMPTLY may result in the loss of these water rights.** Help with reviewing the water rights and completing the ROC can be obtained from the Utah Division of Water Rights and/or water professionals, such as attorneys, engineers, surveyors, and title professionals with experience in water rights and water law.
- N2 A water right often has one or more applications on file with the Utah Division of Water Rights that affect that water right, such as change applications, extension requests, and non-use applications. These applications should be transferred with the water right. The Grantee should review the water right applications and other documents on file with the Utah Division of Water Rights.
- N3 Water rights owned by the Grantor and used on Grantor's Parcel may be "appurtenant" to Grantor's Parcel. Not all appurtenant water rights have been assigned a water right number because not all water rights are "of record." If Section A is being completed, this conveyance includes all appurtenant water rights, whether or not they are listed by water right number or are of record. Grantee should investigate each water right listed and determine if there are any water rights that are not of record. If there are water rights not of record, Grantee should seriously consider making them of record by filing the appropriate forms with the Utah Division of Water Rights.
- N4 100% of the water rights listed here are being conveyed to Grantee. A Report of Water Right Conveyance (see N1 above) should be filed on each water right listed here. The Water Rights listed in Section B may not provide sufficient water for all of the historic water uses.
- N5 Less than 100% of the water right listed is being conveyed to Grantee. The exact portion to be conveyed, expressed in terms of the beneficial uses associated with this portion of the water right must be described. This description generally consists of: (1) the number of families for domestic (indoor culinary) uses (generally quantified as 0.45 acre-feet per family for a year-round residence and 0.25 acre-feet per family for a seasonal residence); (2) the number of acres irrigated (this involves issues of "irrigation duty" [the number of acre-feet of water allowed per acre of irrigated land] and "sole supply/supplemental supply"[the amount of water allocated to each water right when more than one right is used on the same land or for the same livestock]; and (3) the number of livestock being watered (expressed in terms of equivalent livestock units or "ECUS" which are quantified at the rate of 0.028 acre-feet per EAU for full-year use. Any other uses being conveyed should be similarly described. Help with evaluating, quantifying, and/or describing the uses can be obtained from the Utah Division of Water Rights and/or water professionals.
- N6 Shares of stock in water companies (including irrigation, canal, and ditch companies) are generally not transferred by deed. Each company has procedures for transferring ownership. The company should be contacted to ascertain the appropriate procedures to follow. The most common procedure is for the Grantor to endorse and deliver the stock certificate to the Grantee, who then presents that certificate to company for issuance of a new certificate in the Grantee's name. If another procedure is to be followed, that should be noted on the "Other water related disclosures" line in Section C of this form. Each company also defines how much water is associated with a particular share and what fees and assessments are charged. The Grantee should contact the company about all such issues.
- N7 If culinary water service is currently being provided to the Grantor's Parcel by a municipality, a water district, or a water company, that entity should be listed here and the Grantee should contact that entity to ascertain what is required to continue receiving such service.
- N8 If outdoor/secondary/irrigation water service is currently being provided to the Grantor's Parcel by a municipality, a water district, or a water company, that entity should be listed here and the Grantee should contact that entity to ascertain what is required to continue receiving such service.
- N9 If this box is checked, the Grantee should investigate what water IF ANY is available for use on the Grantor's Parcel.
- N10 This space should be used for any other information that the Grantor has which is relevant to water issues associated with the Grantor's Parcel.

**The Utah Division of Water Rights (often referred to as the State Engineer's Office) is located at 1594 W. North Temple, Suite 220, PO Box 146300, Salt Lake City, Utah 84114-6300 Telephone: 801-553-7240 Web Address: [www.waterrights.utah.gov](http://www.waterrights.utah.gov)**

## ***Kinesava Special Exceptions Permit, pg.10-12***

For complete copy, please contact Springdale Town Hall

above and any surcharge delivered by all structures on Lot 22. If no structures exist on Lot 22, the Town Engineer shall determine an appropriate surcharge.

Lot 12: Permitted lot coverage shall be varied from twenty-five percent (25%) of net developable acreage to twenty percent (20%) of total lot size. Efforts should be taken to minimize visual impact of structures.

Lot 13: The preservation of all existing trees is encouraged. The house plans for this lot dated August 30, 1995, are on file with the Town, and have been deemed by the DCD to be compatible with the architectural requirements of the Design Overlay zone within which this lot lies.

Lot 14: The preservation of all existing trees is encouraged. No special grading is required or recommended for Lot 14 over and above those shown on the approved set of construction documents on file with the Town.

Building height shall be in accordance with either Exhibit F or as drawn on construction documents labeled "Mailloux Residence" on file as approved by the DCD.

Lot 15: Permitted lot coverage shall be varied from twenty-five percent (25%) of net developable acreage to twenty percent (20%) of total lot size.

A partial pad, for sales purposes, has previously been cut by KDC. To aid KDC in lot sales, this partial pad may, at the discretion of the DCD, be extended minimally prior to Preliminary Building Plan submittal. The final pad/excavation shall be terraced into the ridge top (such a plan was previously approved in 1990 for a building permit -- permit was never picked up). Figure 15.3 demonstrates a generic elevation/section similar to the structure approved in 1990 and provides a model for the design/construction of a residence on this lot. Restrictions on development shall include or be similar to the following:

(a) The building pad shall be limited on the southeast by the limits of the existing pad or a horizontal dimension of eighteen (18) feet measured due northwest from a yellow cap survey pin existing on the ridge. Said pad shall be limited to the northwest by both the huge boulder residing on the southwest slope of the site and by the large rock adjacent to and southeast of two (2) prominent junipers on the ridge line. Driveway access at appropriate vertical elevations shall extend further northwest to Parunuweap Circle.

(b) Roof lines shall parallel the existing slope grades to within five (5) degrees.

(c) The vertical distance from the yellow survey pin on the southeast pad limit to the eave of the structure will not exceed eight (8) feet.

(d) The vertical distance from the contact grades on the northeast and southeast slope measured to the structure roof eave adjacent to the existing grade shall not exceed ten (10) feet.

(e) No structure gable end shall face southeast, northeast or southwest unless the applicant can demonstrate that such a gable end results in a lesser visual impact from SR-9 than the model in Figure 15.3.

(f) Excavations below the "Proposed Pad or Construction Limit" are allowed, providing that they do not result in increases in structure visibility from the northeast, southeast, and southwest slope.

(g) Garage or residence portions residing on the northwest half of the lot are not limited by the restrictions listed above.

(h) All portions of the structure not restricted in height by these provisions and illustrations specific to Lot 15 shall comply with building height requirements set forth in Exhibit F.

To mitigate visual impact of structures, the following shall apply: (i) south, east, and north elevations shall appear as one story, (ii) roof design shall introduce a geometry and scale which reestablishes the contours of the surrounding hillsides, (iii) preservation of trees is imperative (no more than four (4) small trees shall be removed).

#### LOT 15 SKETCHES

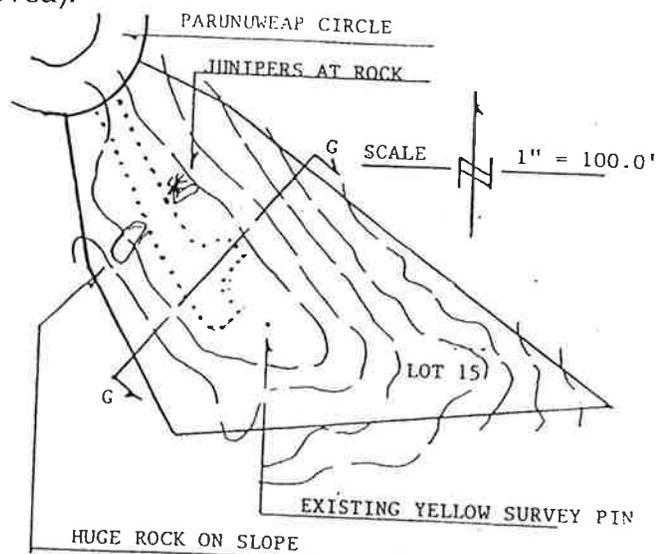


Figure 15.1

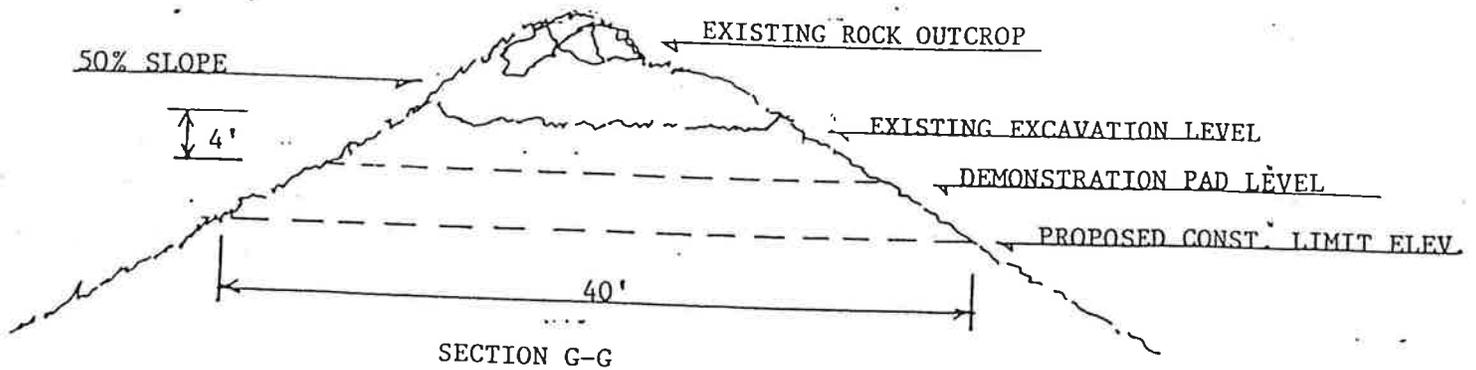


Figure 15.2

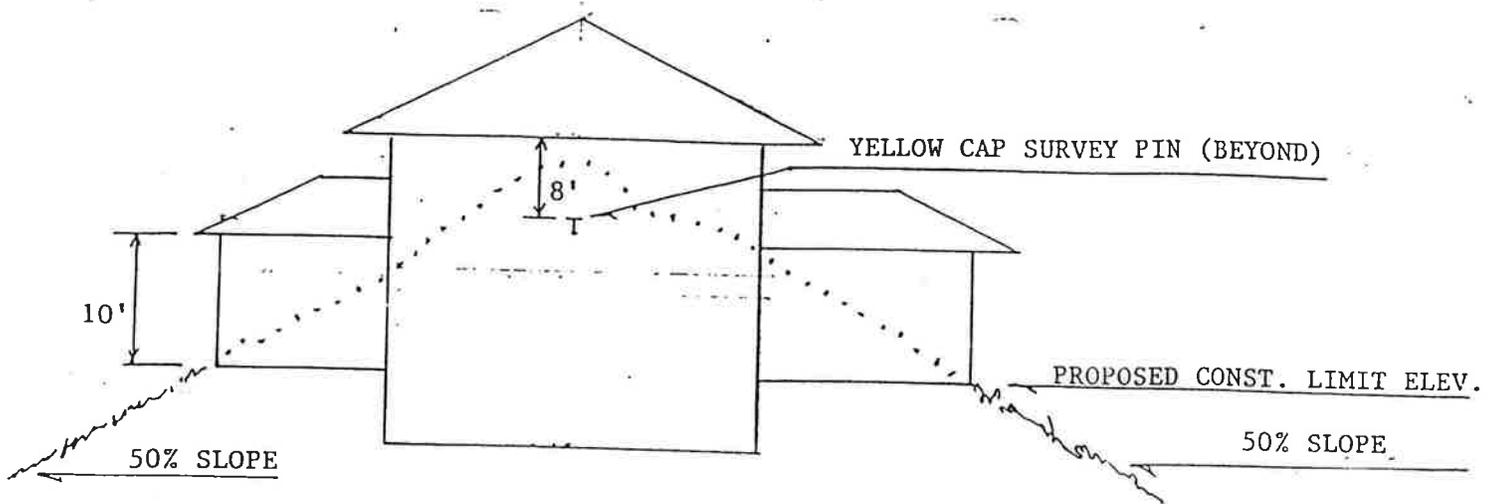


Figure 15.3

Lot 16: Permitted lot coverage shall be varied from twenty-five percent (25%) of net developable acreage to twenty percent (20%) of total lot size. Minimum required yards shall be varied such that minimum yard shall be ten (10) feet and the average of all yards shall be not less than twenty-five (25) feet. Preservation of four (4) large juniper trees is very important.

This lot features an existing excavation where blue, expansive clays have previously been partially excavated. It appears from the evidence presented that similar clays will be encountered in other areas of the site. To accommodate excavation and removal of such clays and the establishment of a certified structural fill, the pad may be cut using the existing deepest elevation of the existing excavation as a reference grade. See Figure 16.2.

# Board of Adjustments

THE SPRINGDALE BOARD OF ADJUSTMENTS WILL HOLD A MEETING ON TUESDAY, AUGUST 9, 1994 AT 6:30 PM AT SPRINGDALE TOWN HALL, 118 LION BLVD.

1. APPROVAL OF AGENDA
2. SPECIAL EXCEPTION FOR ZION CANYON CAMPGROUND CONCERNING BEING GIVEN CONFORMING STATUS WITHIN THE ZONING ORDINANCE
3. VARIANCE FOR REQUIRED REAR YARD SETBACK/ MABBUTT RESIDENCE/ KINESAVA
4. ADJOURN

APPROVAL: Betty Cordy DATE: 8/9/94

The foregoing agenda was posted at the Springdale Post Office, the Springdale Branch of Zions First National Bank and Springdale Town Hall by Susann Fraley at approximately 4:50 AM / PM on Aug. 8, 1994.

## AGENDA

**TOWN OF SPRINGDALE  
P.O. BOX 187  
SPRINGDALE, UTAH 84767**

**THE MINUTES FROM THE SPRINGDALE BOARD OF ADJUSTMENTS MEETING HELD ON TUESDAY, AUGUST 9, 1994 AT 6:30 PM AT SPRINGDALE TOWN HALL, 118 LION BLVD.**

**MEMBERS PRESENT:** Vice-Chairman Betty Cordy, Karla Player, Steve Cooper, Dale Gilchrist, Pat Moore and Marcel Rodriguez. John Donnell was excused.

**ALSO PRESENT:** Director of Community Sally Fox and Deputy Town Clerk Sue Fraley, recording. There were 4 townspeople present. (See attached) The meeting was called to order at 6:34 PM by Vice-Chairman Cordy. She also welcomed Marcel Rodriguez and Dale Gilchrist to the Board.

**APPROVAL OF AGENDA: MOTION:** by Karla Player to approve the agenda. Seconded by Marcel Rodriguez. Passed unanimously.

**SPECIAL EXCEPTION FOR ZION CANYON CAMPGROUND CONCERNING BEING GIVEN CONFORMING STATUS WITHIN THE ZONING ORDINANCE:** Dave Ferber stated that his request is that even though a campground is not allowed use in village commercial that they be treated as an allowed use. He added that the previous Mayor indicated that the non-conforming status of the campground would not prohibit expansion or alterations, etc. He stated that the recent application for the bathrooms has prompted this request and when they came in they found out that we had to go through great lengths every time they want to build or remodel.

Betty Cordy stated that the Board of Adjustment does not have the authority to grant a special exception in this case and therefore we would have to deny the application.

Karla Player agreed that the Board cannot hear this.

Dale Gilchrist stated that what Mr. Ferber is asking for is legislative action and that is beyond this Board's jurisdiction. This Board in effect would be rezoning and we cannot do that. Discussion ensued.

Mr. Ferber asked what the proper procedure would be. Ms. Fox explained the process for special exception.

Pat Moore stated that Mr. Ferber needs to apply for a change to the zoning ordinance. Discussion ensued concerning non-conforming uses. Mr. Gilchrist after you get a change in the zoning ordinance, then you would come before this Board for a special exception.

**SPECIAL EXCEPTION FOR ZION CANYON CAMPGROUND CONCERNING BEING GIVEN CONFORMING STATUS WITHIN THE ZONING ORDINANCE CONT:** Steven Cooper stated that in order to get a special exception you need a project, not just an idea. He added that he felt the campground should be treated as a permitted use because it does fulfill a real need in the community. He encouraged Mr. Ferber to go through a Title 12 amendment. Discussion continued. (Ms. Fraley arrived)

Mr. Ferber stated that he felt special consideration should be given to businesses who have been here over 15 years and according to the poll from 1989 the citizens were neutral on RV/Campgrounds. The poll shows there is no support for prohibiting campgrounds. He added that he doesn't know why he was instructed to go through a special exception. Ms. Fraley responded that she believed that the special exception was for the bathroom, not a general exception to the property. Discussion continued concerning the letter from the attorney and the options that are outlined.

**MOTION:** by Marcel Rodriguez to deny a special exception to the Zion Canyon Campground. Seconded by Karla Player. Passed unanimously.

**VARIANCE FOR REQUIRED REAR YARD SETBACK/ MABBUTT RESIDENCE/ KINESAVA:** Sally Fox explained the variance request for the Mabbutt residence. The variance to the setback will allow for preservation of two old Juniper tree on the property. The Board reviewed the standards outlined in the ordinances for granting a variance and discussed the preservation of the vegetation.

**MOTION:** by Karla Player to grant the variance to the rear yard setback for the Mabbutt residence to preserve the existing vegetation. Seconded by Marcel Rodriguez. Passed unanimously

**ADJOURN: MOTION:** by Karla Player to adjourn. Seconded by Steven Cooper. Passed unanimously. The meeting adjourned at 7 PM.

*Susann Fraley*  
Deputy Town Clerk

APPROVAL:

Betty Cordy *Betty Cordy*  
Karla Player *Karla Player*  
Steve Cooper *Steve Cooper*  
Dale Gilchrist *Dale Gilchrist*  
Pat Moore *Pat Moore*  
Marcel Rodriguez *Marcel Rodriguez*

The foregoing minutes were posted at the Springdale Post Office, the Springdale Branch of Zions First National Bank and Springdale Town Hall by *Susann Fraley* at approximately 1:05 AM / (PM) on March 28, 1996.



**Memorandum**

**To:** Ken Sizemore, Administrative Hearing Officer  
**From:** Thomas Dansie, Director of Community Development  
**Date:** February 25, 2020  
**Re:** **Variance Request: Parcel S-BIT-1-A, 1214 and 1216 Zion Park Boulevard  
Side Setback Reduction (section 10-11B-6)**

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**Overview**

Ryan Lee has requested a variance from the side setback on a Village Commercial (VC) zoned parcel, S-BIT-1-A. The property is adjacent to a residentially zoned property. Section 10-11B-6(B) requires a 20-foot setback in such a situation. Mr. Lee is requesting the setback be reduced to 10 feet.

**Applicable Code Sections**

The Hearing Officer may wish to review the following code sections prior to the meeting:

- 1- 10-2-2: Definitions (particularly the definition of "SETBACK/YARD")
- 2- 10-3-3: Variances
- 3- 10-11B: Village Commercial Zone (particularly section 10-11B-6)

**Background Details**

Variance Request: Reduced Side Setback Requirement

The VC zone requires a 20-foot side setback where the property is adjacent to residentially zoned property (see section 10-11B-6(B)). The subject property is adjacent to Foothill Residential (FR) zoned property on the south and west. Thus, a 20-foot setback is required from the south side property line. The variance request is to reduce the south side setback from 20 feet to 10 feet.

Property Details

The subject property is located on the west side of State Route 9, just south of the Bit and Spur Restaurant (1214 Zion Park Boulevard). The property is in the VC zone. The properties to the north and across the street to the east are also in the VC zone. The properties to the south and west are undeveloped properties in the Foothill Residential (FR) zone.

Until recently the property was two separate parcels (S-BIT-1 and S-BIT-2). Parcel S-BIT-1 was used as a paid parking area. Parcel S-BIT-2 was used as a retail art gallery, with the later addition of two transient lodging units.

The two parcels have now been combined into a single parcel, S-BIT-1-A. This parcel is being redeveloped with 16 additional transient lodging units, for a total of 18 on the newly combined property. The additional transient lodging units are being developed in the building previously used as a gallery as well as three new buildings on the property. Mr. Lee has already been granted a series of entitlements for this development: design/development review, conditional use permit, subdivision plat amendment combining the two lots, and a building permit for the first of the three new buildings. All of these entitlements were based on project drawings showing the proposed new development in compliance with all applicable land use standards, including setback requirements.

In the process of reviewing the construction plans for building permits for the next two new buildings it became evident the development as proposed actually did not meet the required side setback. The project designer was not aware roof overhangs could not project into the setback area. The previously approved site plans showed the outline of the foundations of the buildings in compliance with setback requirements, but the site plans did not show an indication of the roof overhangs. The overhangs as planned would encroach several feet into the side setback.<sup>1</sup>

Further, a restroom building built several years ago in conjunction with the prior public parking use (and planned to remain on the property) was found to be closer to the proposed new buildings than the site plan for the project showed. In order to maintain the required distance between the proposed new transient lodging buildings and the existing restroom building, Mr. Lee is proposing to push one of the new lodging buildings back, making it further encroach in the side setback.

Mr. Lee is requesting a variance to reduce the side setback adjacent to a residential zone from 20 feet to 10 feet. This reduction would allow the proposed new buildings, with eave overhangs, to be in compliance with setback requirements. It would also allow the location of the proposed buildings to be adjusted slightly to meet the required 20-foot building separation distance from the existing restroom building.

As he indicates in his application, Mr. Lee met with staff in the early stages of design on the project to discuss the possibility of a side setback variance based on what he identified as the unique characteristics of his lot (detailed in the attached variance application). Although he felt a variance was justified based on the development difficulties and special circumstances of the property, Mr. Lee decided against applying for the variance at that time and attempted to design the project in compliance with the 20-foot side setback. The series of events described above has created additional difficulty for Mr. Lee in complying with the setback standards and he has now decided to proceed with the variance request as he initially contemplated.

#### Variance History in the Area

In 1996 the property immediately to the north (S-BIT-3-A) was granted a variance for increased height for a building in the VC zone within 50 feet of a residential zone.

In 1994 a property approximately 700 feet to the south was granted a variance from the required five-foot setback for a private lane.

#### **Maps**

The following pages contain maps of the subject property and surrounding area.

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<sup>1</sup> The Town's definition of "setback" requires the setback area to be unobstructed from the finished grade upwards. Thus, roof eave overhangs are not allowed to encroach into the setbacks.

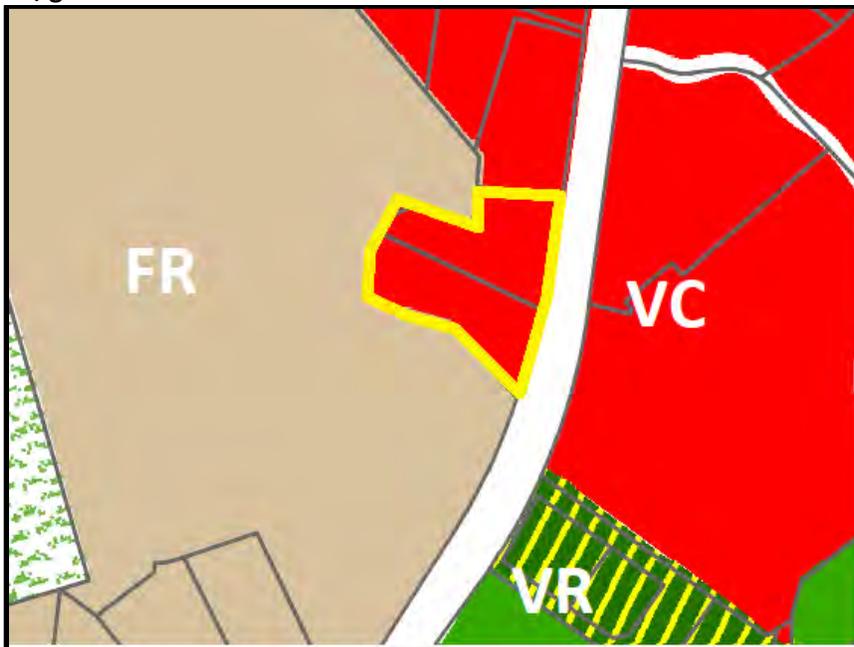
MAP 1 – Subject property outlined in red.



Map 2 – Subject property outlined in red. Properties that have received front setback variances in the past are noted.



Map 3 – Zoning Map. Subject property outlined in yellow. Red areas are zoned VC, tan areas are zoned FR, green areas are zoned VR.



***Applicants' Submittal***

The applicant's application and supporting material are attached to this report.



TOWN OF SPRINGDALE

118 Lion Blvd PO Box 187 Springdale UT 84767 435-772-3434 fax 435-772-3952

APPLICATION FOR VARIANCE

FOR OFFICIAL USE ONLY File #
Brief Description of Project:
Application Date: Completed File Date: Review Date:
Notes:
Authorization: Revised 02/05

Application is hereby made to the Board of Adjustment of Springdale, Utah for a variance pursuant to Section 10-3-3 of the Springdale Town Code for the following:

APPLICANT INFORMATION:

Name: RYAN LEE
Street Address: 185 S 70 W LINDON UT 84042
Mailing Address: SAME
Email Address: RYAN.LEE@BLUE RAVEN SOLAR.COM
Phones (Home) N/A (Cell) 801.318.0036 (Fax) (Business)

SITE INFORMATION

Project Address: 1216 LION PARK BLVD SPRINGDALE
Tax Code Number: S-BIT-1 Zone: VILLAGE COMMERCIAL

APPLICATION FEE

Non-refundable fee of \$800.00 must be paid to the Town at the time this application is filed.

VARIANCE DESCRIPTION

Code section from which variance is requested: #10-11B-6 (setback requirement)

Please describe the nature of the variance request:

PLEASE See ATTACHED PDF FOR ANSWERS TO ALL QUESTIONS

VARIANCE STANDARDS

The board of adjustment may grant a variance only if all of the following criteria have been met (reference sections 10-3-3-B through 10-3-3-F for further clarification of the standards):

1. Literal enforcement of the provisions of this title will result in unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;
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 a substantial property right possessed by other property in the same district;
4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
5. The spirit of this title is observed and substantial justice done.

-----  
Please describe in detail how the requested variance relates to these five standards (use additional paper if necessary).

How will the literal enforcement of the provisions of the Town Code result in unreasonable hardship that is not necessary to carry out the general purpose of the Code? \_\_\_\_\_

\_\_\_\_\_  
PLEASE SEE ATTACHED PDF FOR ANSWERS TO ALL QUESTIONS  
\_\_\_\_\_  
\_\_\_\_\_

What are the special circumstances attached to the property that do not generally apply to other properties in the same district? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How will granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Why will the variance will not substantially affect the general plan and not be contrary to the public interest? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How will the spirit of this title be observed and substantial justice done? \_\_\_\_\_

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REQUIRED INFORMATION

The following items must be submitted before the variance request will be scheduled for public hearing:

- A. A copy of the surveyed legal description of the property in question.
- B. A statement certifying that the applicant is the legal owner of the property in question, or a letter from the legal owner certifying that the applicant is authorized to apply for the variance and represent the owner.
- C. All plats, plans, drawings, to scale, showing the location, dimensions, and materials of all buildings and structures, streets, vehicle circulation patterns, parking, landscape and open space areas, signs and/or other information as appropriate to the application.

VARIANCE PROCESS

Upon submission of a complete application, the Board of Adjustment will schedule a public hearing to consider the variance request in accordance with section 10-3-1 of the Springdale Town Code. At the hearing the Board may grant, grant with conditions, deny, or continue the variance request.

Variance approvals lapse after one year unless a building permit is issued and construction diligently pursued toward completion of the subject of the variance, or a permit is issued authorizing the subject of the variance, or the site is occupied if no building permit or certificate of occupancy is required.

APPLICANT CERTIFICATION

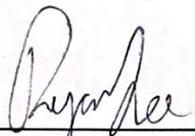
I certify that the information contained in this application is true and correct.

Printed Name: RYAN LEE

Signature: *Ryan Lee*

Date: 2-15-2020

I, Ryan Lee, am the legal owner of the property in question: 1216 Zion Park Blvd in Springdale, UT (property also known as S-Bit-1 for the tax code number).

  
\_\_\_\_\_  
Ryan Lee

2-15-2020  
Date

## VARIANCE DESCRIPTION

**Code section from which variance is requested:** #10-11B-6 (setback requirement)

### **Please describe the nature of the variance request:**

At S-Bit-1 located at 1216 Zion Park Blvd, Springdale, UT, I am requesting a 10-foot building setback along just the south property line of this lot (currently there is a 20-foot setback in place along the south border of this lot).

## VARIANCE STANDARDS

### **How will the literal enforcement of the provisions of the Town Code result in unreasonable hardship that is not necessary to carry out the general purpose of the Code?**

If I may, for simplicity and courtesy, I will briefly sum up my three core arguments for why I believe a variance is warranted in this unique situation:

1. U.D.O.T. has refused to grant me another entryway to my property which has limited where I can place the buildings: the entryway to the property off of SR-9 and the parking lot that follows from the entryway have dictated the building placement to a very large degree. This greatly limits my ability to arrange the positioning of the buildings on the lot.
2. Almost 50% of my property is unbuildable because of the 30% slope rule & setbacks; this gives me a very small building footprint to place (or in this case to re-arrange) the existing and planned buildings on the property.
3. And finally, and perhaps most importantly: the south side of my property borders a residential zone (Foothills Residential), but because that property next door is extremely steep and thus will never be allowed to be built on (due to the 30% slope rule), I will not be impairing a neighbor's enjoyment of their property with the commercial activity on my property. Due to the steep hill next door to me, in the future *there never will be an immediate neighbor* that adjoins my property.
  - **In short, the essence of my petition is this: the spirit of the code for the 20-foot setback is to protect a residential home from the potential noise, sightline blockage, and general disturbance that a commercial property could potentially generate. But because there are no residential homes next door— nor will there ever be a home there—I am requesting a variance** to be treated like any other village commercial zoned lot which would entail a 10 foot setback instead of the 20 foot setback as presently constituted along the south boundary of my lot.

### More information regarding the above three summary points:

This lot (S-Bit-1) has strict constraints with U.D.O.T. and their right of way issues on SR-9. Due to the fact that I am only granted one entryway for both the S-Bit-1 and S-Bit-2 lots,

I am very limited to what I can do for an entryway off of SR-9 (and thus the parking that flows from the entryway). I have already applied to U.D.O.T. for another separate entrance to the property off of SR-9 to help solve this problem, but I was denied in that application. Therefore, the proposed plans do not have much room in them for variation.

What this really means in plain speak: I cannot put the parking lot behind the buildings or do anything behind the buildings (even if the 20-foot setback remained in place). Thus the 20-foot zone behind the proposed building effectively just becomes dead, wasted space that cuts down on the available space for landscaping on the front (north side) of the proposed buildings— where people would actually see the landscaping and enjoy it.

I feel it is unreasonable to waste so much space. Instead of putting this space to good use i.e. landscaping and therefore beautifying the lot—it will be instead unused dead space behind a building where virtually nobody would ever go or see.

Furthermore, due to the unique topography of the lot(s) in question, a good portion of S-Bit-1 and S-Bit-2 are steep (30% slope or greater)—so that they are thus unbuildable hillside ordinance area. (Update note: as of Feb. 12, 2020 these 2 lots are now officially combined into 1 lot in the neighborhood plat amendment).

Therefore, because my lot is so steep, there is a fairly tight restriction on what can be built in the building footprint for this lot.

Further, by having the southern boundary constrained by the 20-foot setback it makes the building envelope an even tighter fit and therefore overly restrictive.

And due to the fact that there are no residential homes next door to the south of my lot—nor will there ever be due to the steep topography of the lot to the south—I would respectfully ask for relief on this 20 foot setback to go to a 10 foot setback consistent with the rest of the village commercial zone.

\*\*\*\*\*

I had initially contemplated submitting this variance request for the 3 core reasons outlined above. However new developments have created additional urgency in this matter. In short, there was a misunderstanding from the civil engineer on the building setbacks (he mistakenly believed that the 20 foot building setbacks were from the foundation line when in fact Springdale measures them from the eaves). When this issue was realized, it has created a dilemma due to the extremely tight building footprint for the lot because of the UDOT mandated entryway from SR-9, the 30% slope restrictions, as well as the 20-foot setback restriction from the south property line (instead of the customary 10-feet as is normal for the village commercial zone).

Furthermore to complicate matters, an existing building on the property was built 3 feet farther to the south than the plans showed, which places it in violation of the 20-foot building setback rule. By granting the 10-foot setback variance request, all the buildings currently planned and passed by town staff, DDR commission, and city council could proceed as planned, as well as prevent the demolition of the existing building. So in short, this misunderstanding of the setback rules for the eaves has created a unique dilemma. However, if my property could enjoy the setbacks that almost all village

commercial lots enjoy, we could solve all of these issues— all without diminishing anyone’s property rights or enjoyments in the lot to the south of my property.

**What are the special circumstances attached to the property that do not generally apply to other properties in the same district?**

Most properties in the village commercial zone border other village commercial properties, thus the setback for building is 10 feet from the property line. Indeed, on my other property at S-Bit-2, it is bordered by other village commercial properties (and thus the setback for the buildings on the S-Bit-2 lot are 10 feet).

However, on the particular lot in question (S-Bit-1), the south side of this lot borders a zoned residential lot— therefore the setback is 20 feet on the south side of the S-Bit-1 lot—instead of the standard 10 feet for a village commercial property.

The special circumstance that makes this zone different and worth a variance is that because the south side of the S-Bit-1 lot borders a very steep hill, no residential homes or structures may ever be built on the residential lot in the area immediately next to the S-Bit-1 lot. The topography in that area creates a unique situation not applicable to other commercial-to-residential boundaries elsewhere in the town.

*As a practical matter, the steep hillside located in that area creates a large setback area of its own that would prevent any building on the adjacent parcel from being located near any building on S-Bit-1.*

In fact, there is a considerable distance from the S-Bit-1 lot and on this residential property from where *anything* could be built. There is a steep hill and then a steep ridge rising immediately to the south and also to the west of the S-Bit-1 lot. I estimate that it is a few hundred yards before anything could be built on the residential lot in question (bordering the S-Bit-1 lot) in order to be compliant with the code that prevents building on steep slopes. And if a home was ever to be built on the lot next door, one would not be able to see my property from this potential future home (due to the steep terrain which means the home would be down a steep hill on the other side of the hill from my property).

Therefore, because of the sheer vertical nature of this adjoining lot, and because no structures will be able to be built on this residential area next to the S-Bit-1, I am asking for a variance to have my proposed buildings 10 feet off the property line instead of the 20 feet as currently required by the code.

And as previously mentioned: due to the fact that nearly 50% of my property is unbuildable because of the 30% slope rule and setbacks, this gives me a very small building footprint to place (or in this case to re-arrange) the existing and planned buildings on the property.

**How will granting the variance be essential to the enjoyment of a substantial property right possessed by other property in the same district?**

A 10-foot setback on the south side of the S-Bit-1 lot would be consistent with the rest of the property as well as the 10-foot standard for the rest of the village commercial zone.

A 10-foot setback would give more space for landscaping in front of the proposed buildings. Nothing will be landscaped behind the buildings to the south (whether it is a 10-foot or 20-foot setback)-- as the space behind the proposed buildings just dead-ends into the steep hill.

In short, I can add 10 feet of landscaping to enhance the property and make it more interesting and beautiful— or instead there will be 20 feet of dead-space behind the buildings up until the south property line (which most likely just means it will be filled in with gravel or stay as weeds since people won't be going behind the buildings).

### **Why will the variance not substantially affect the general plan and not be contrary to the public interest?**

I believe that this is the strongest argument on why the variance should be allowed: the requested setback allowance will not negatively affect the general plan and would in fact be advantageous to the public interest.

As mentioned previously, because of the slope building ordinance already in place, nobody will EVER be able to build on the property immediately to the south of my lot (S-Bit-1). Because no structures will be able to be built next to the S-Bit-1 lot, there could be no disturbance or barrier that could potentially block or disturb any current or potential future homes/structures on this residential lot that neighbors the S-Bit-1 lot.

It would be very hard to come up with a legitimate argument as to why granting this variance request would cause any harm to any stakeholder involved. In contrast, I could make the property much more beautiful for the city and the guests if I had that additional 10 feet to add landscaping to the area in front of the buildings.

As the plan currently exists, the parking lot will extend almost all the way up to the proposed buildings. If I were granted this variance, then I would have 10 additional feet to add greenery and trees in front of the buildings. Springdale is much better off with more landscaping and greenery instead of just an asphalt parking lot that extends almost all the way up to the proposed buildings.

If the variance were not granted the development would still proceed— this is not a situation where the project is in limbo without this variance. However, due to the nature of the project and the tight area of the lot, the parking requirements, the required setbacks, the building footprint, etc., I believe that if the variance were granted it would enhance the property for all stakeholders, including the city.

One of the main features that the town and visitors to the LaFave property enjoy is the green space and trees on the existing LaFave property. We frequently get positive comments from our guests about how much they love the landscaping and the green space in front and on the side of the current LaFave building. My plan is to keep the

same theme for landscaping on the S-Bit-1 lot as currently exists on the S-Bit-2 lot (LaFave). With this additional 10 feet of space, I will have the room to make this property into something special with pleasant landscaping. Without it, there is just a lot of asphalt leading up to the buildings and then 20 feet of dead-space behind the buildings leading up to the south property line. This situation is in nobody's best interest, including the city that puts an emphasis on landscaping in the design review process.

### **How will the spirit of this title be observed and substantial justice done?**

The spirit of this title will absolutely be observed if this variance is granted. As stated previously: the spirit of the code for the 20-foot setback was to protect a residential home from the potential disturbance that a commercial property could generate.

But because there are no residential homes next door— nor will there ever be —a variance granted here (to be treated like any other village commercial zoned lot) would harm no one. Nor in the future would anyone be harmed (as there can never be another home built immediately next door).

**Absolutely *no one* is negatively affected by this variance request. There are no people in that residential zone who would have their property rights or enjoyment diminished, property values decreased, sight-lines blocked, or privacy invaded. Nor would the noise increase with the proposed 10-foot setback.** This proposed variance would not harm any individual or their property in any tangible way (simply because there are no residents or houses immediately abutting the S-Bit-1 lot— nor will there ever be due to the steep hill that flanks the south side of this lot and prevents future construction).

In summary: it will not hurt anyone to have the 10-foot variance granted. Instead, I could enhance and beautify the property with some great landscaping in the 10 feet in front of the buildings and also avoid demolishing an existing Parkitecture structure.

Without the variance, there wouldn't be much room in front of the buildings for landscaping and there would be 20 feet of dead-space behind the buildings that would be filled in with gravel-- or just stay un-landscaped as weeds.

Most importantly if this variance were granted— there would be no detriment to anyone involved: to the city, or any residents in the residential zone immediately to the south of the property (as there are no residents living nearby due to the steep hill).

Ultimately the code exists to serve the town and its constituents. Sometimes there are exceptions that could and should be granted because the implications of the changes will not cause harm to any property owners or the town itself—and the changes would also enhance the town and the property in question.

I sincerely thank you for your consideration,

Ryan Lee

Photograph showing hillside on FR zoned property to south of subject lot

10/11/2023 10:00 AM  
10/11/2023 10:00 AM  
10/11/2023 10:00 AM

As part of my services, application and/or development... I would like to submit the photos of the lot immediately behind the north property line of 301-1. This is the lot that I would like to see in my response to the application questions. It is located at the southeast corner immediately to the south of my lot and is being held in fee by the City, despite...



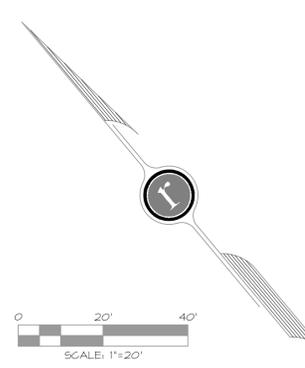
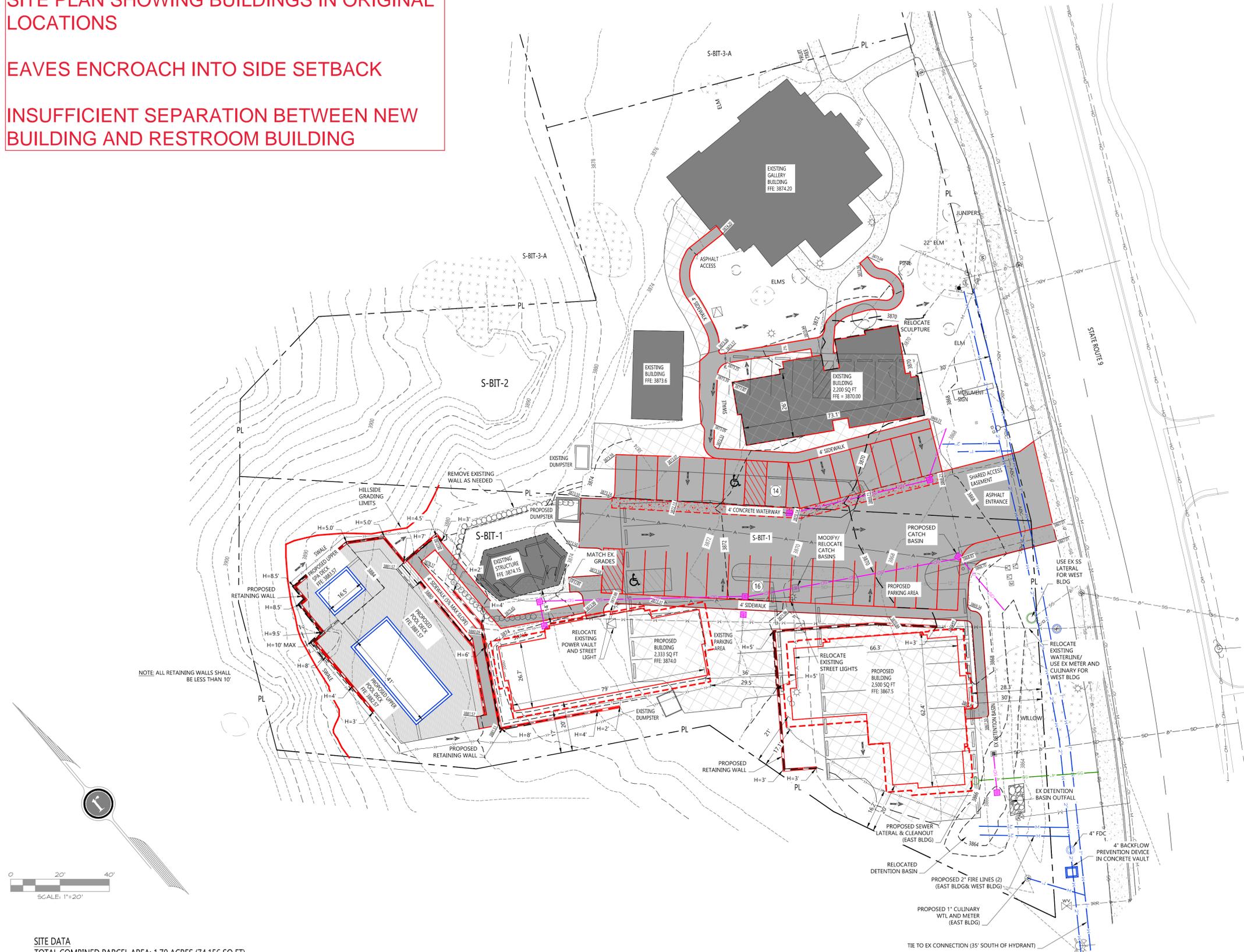
Track and/Or Open Day (the next to open)  
Date  
Time

REMEMBER: Never give out your account information, password, or other personal information over a web.

**SITE PLAN SHOWING BUILDINGS IN ORIGINAL LOCATIONS**

**EAVES ENCROACH INTO SIDE SETBACK**

**INSUFFICIENT SEPARATION BETWEEN NEW BUILDING AND RESTROOM BUILDING**



**SITE DATA**  
 TOTAL COMBINED PARCEL AREA: 1.70 ACRES (74,156 SQ FT)  
 TOTAL BUILDINGS & HARDSCAPE AREA: 0.57 ACRES (24,674 SQ FT) = 33% OF TOTAL  
 TOTAL PROPOSED OPEN SPACE: 0.58 ACRES (49,482 SQ FT) = 67% OF TOTAL  
 TOTAL PROPOSED PARKING SPACES: 30 (2 ADA)

DATE:	1/23/2020
JOB NO.:	10953-18
DESIGNED BY:	JWB
CHECKED BY:	JWB
DWG:	SITE & GRADE
DATE:	
REVISIONS:	



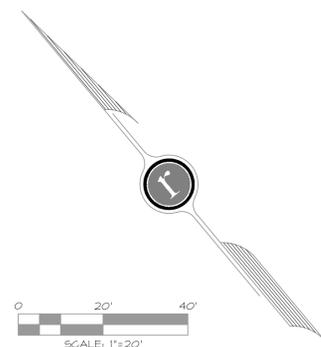
352 East Riverside Drive, Suite A-2  
 St. George, Utah 84790  
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 www.rscivil.com

**SITE AND GRADING PLAN**  
 FOR  
**PARCELS #S-BIT-1 & #S-BIT-2**  
 SPRINGDALE, UTAH

**SITE PLAN SHOWING BUILDINGS  
RELOCATED WITH VARIANCE  
APPROVAL**



NOTE: ALL RETAINING WALLS SHALL BE LESS THAN 10'



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**ROSENBERG**  
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**SITE AND GRADING PLAN  
 FOR  
 PARCELS #S-BIT-1 & #S-BIT-2  
 SPRINGDALE, UTAH**