



CITY OF OREM
BOARD OF ADJUSTMENTS MEETING
56 North State Street, Orem, Utah
March 12, 2025

*This meeting may be held electronically
to allow a Board Member to participate.*

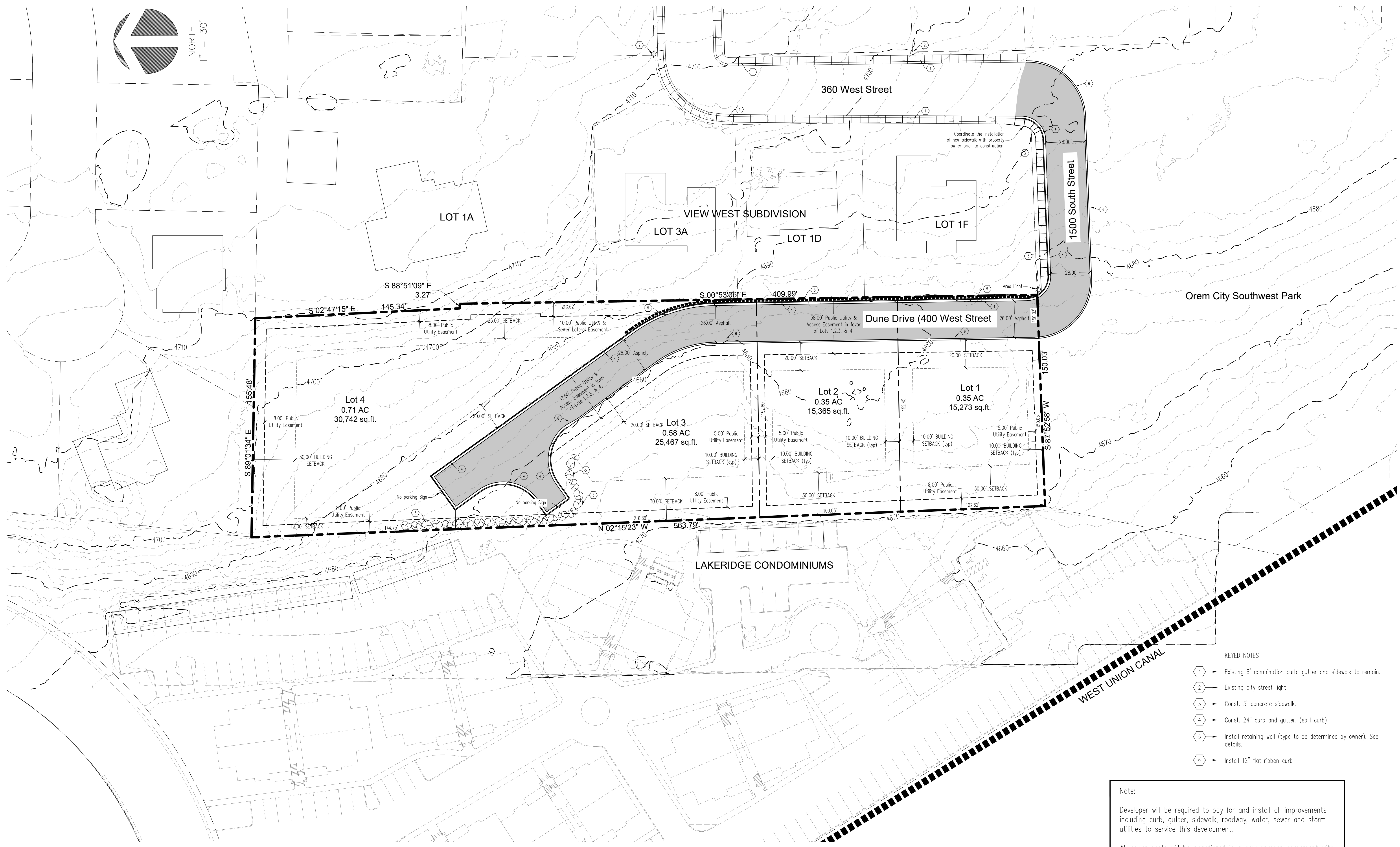
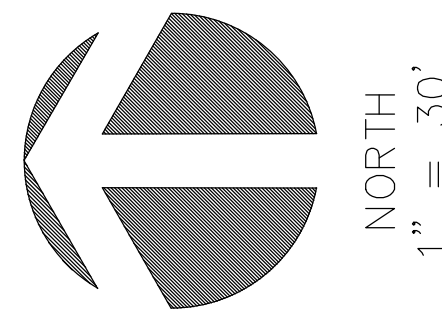
5:30 PM WORK SESSION

6:00 PM REGULAR SESSION – CITY COUNCIL CHAMBERS

1. CALL TO ORDER
2. 6:00 PM SCHEDULED ITEMS
 - 2.1 **PUBLIC HEARING - SUNFLOWER DUNES - Requesting a variance to Orem City Code 17-7-7(D) to allow a cul-de-sac longer than 650 feet on property located generally at 1450 South 360 West**
 - 2.2 **Chair and Vice Chair Election**
3. MINUTES REVIEW AND APPROVAL
 - 3.1 **Review and Approve Minutes from December 13, 2023**
4. ADJOURN

**THE PUBLIC IS INVITED TO PARTICIPATE IN ALL BOARD OF ADJUSTMENT MEETINGS.
If you need a special accommodation to participate in the Board of Adjustment Meetings and Study Sessions,
please call the Development Services Office at least 3 working days prior to the meeting.
(Voice 801-229-7183)**

This agenda is also available on the City's webpage at orem.org

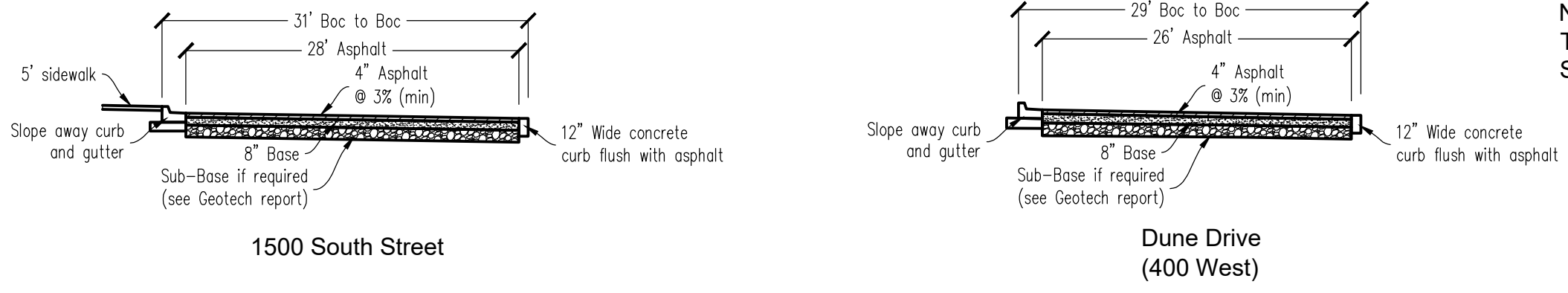
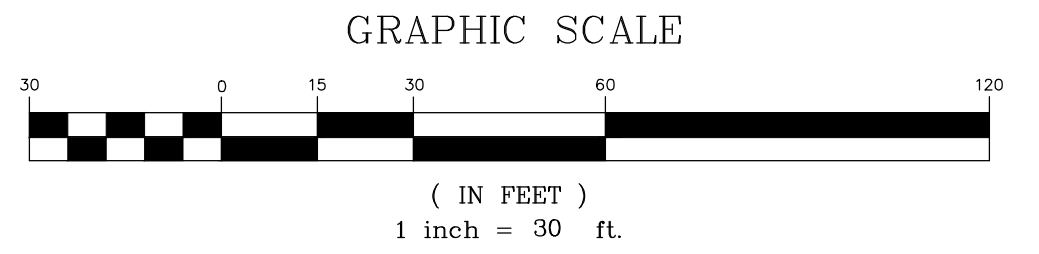



DUDLEY AND ASSOCIATES
 ENGINEERS PLANNERS SURVEYORS
 353 EAST 1200 SOUTH, OREM, UTAH
 801-224-1252

Sunflower Dunes
Preliminary Plat
 Utah
 Orem

- KEYED NOTES**
- 1 Existing 6" combination curb, gutter and sidewalk to remain.
 - 2 Existing city street light
 - 3 Const. 5' concrete sidewalk.
 - 4 Const. 24" curb and gutter. (spill curb)
 - 5 Install retaining wall (type to be determined by owner). See details.
 - 6 Install 12" flat ribbon curb

Note:
 Developer will be required to pay for and install all improvements including curb, gutter, sidewalk, roadway, water, sewer and storm utilities to service this development.
 All sewer costs will be negotiated in a development agreement with Orem City.



NO ON-STREET PARKING IS ALLOWED THROUGHOUT THIS PROJECT. CURB TO BE PAINTED RED OR SIGNAGE TO BE INSTALLED.

Know what's below. Call 811 before you dig.



BLUE STAKES OF UTAH
 UTILITY NOTIFICATION CENTER, INC.
 www.bluestakes.org
 1-800-662-4111

CAUTION!!! Notice to contractors

The Contractor is specifically cautioned that the location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and where possible from measurements taken in the field. The information is not to be considered exact or complete. The Contractor must notify the utility location center at least 48 hours prior to any excavation to request the exact location of the utilities in the field. It shall be the responsibility of the Contractor to relocate all existing utilities which conflict with the proposed improvements shown on the plan.

Revisions	
Date	2-5-2025
Scale	1" = 30'
By	TD
Tracing No.	L - 14888
Sheet No.	C - 2.0

Item #: 2.1	<h2 style="margin: 0;">Board of Adjustment</h2> <p style="margin: 0;">March 12, 2025</p>	
Prepared By: Jared Hall		
Applicant: Edward & Diana Creer	VARIANCE – The applicants request a variance to Orem City Code, Section 17-7-7(D) for property located generally at 1450 South 360 West.	

NOTICES:

- Posted in 2 public places
- Posted on City webpage and City hotline
- Posted at utah.gov/pmn
- Mailed notices on February 28, 2025

SITE INFORMATION:

- General Plan Designation: Low Density Residential
- Current Zone: R8
- Acreage: 2.0

ACTION:

The Board of Adjustment can approve or deny the applicant’s variance request

FIVE CRITERIA:

- Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance;
- There are special circumstances attached to the property that do not generally apply to other properties in the same district;
- Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
- The variance will not substantially affect the general plan and will not be contrary to the public interest; and
- The spirit of the zoning ordinance is observed and substantial justice done.

REQUEST: Orem City’s Subdivision Code, Section 17-7-7(D)(2) states: “*A cul-de-sac shall not exceed six hundred fifty (650) feet in a residential zone.*” The subject property is zoned R8, Residential. The applicants, Edward and Diana Creer, request a variance to Orem City Code 17-7-7(D) to allow a cul-de-sac longer than 650 feet on property located generally at 1450 South 360 West

BACKGROUND: The applicants are preparing to subdivide the subject property, which can only be accessed by extending the existing 360 West Street. The City’s subdivision regulations do not allow cul-de-sacs or other dead-end access for residentially zoned properties that are longer than 650 feet. The subdivision of the property in question will require access almost 900 feet in length, leading to this request for a variance.

REVIEW: Orem City Code Section 17-1-5 gives the Board of Adjustments authority to hear and decide upon requests for variances and exceptions to the Subdivision Ordinance. The Board should only authorize a variance that meets the tests of hardship laid out in City Ordinances and Utah State Code. The applicants have responded to the tests of hardship in their written application, which is attached to this report packet for your review. In addition, staff has reviewed the variance request against those tests below:

1. *Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.*

The purpose of the Zoning Ordinance is outlined in Section 22-1-2. In essence, the purpose is to promote the general welfare of the community and to implement plans for the orderly growth of the city. The purpose of the R8 Zone is “to promote low density residential uses with a minimum lot size of 8,000 square feet per lot, and to allow other selected uses which are compatible with the character of the zone. The purpose of the limited lengths of dead-end streets is related to utilities and city and emergency services, protecting public health and safety.

The subdivision plans for Sunflower Dunes are under review by the Development Review Committee (DRC), which includes city engineers, the Fire Department, city planners and others. Access to the subject property is limited by several factors. Single-family lots have been developed to the east and north of the property, and a large multi-

family development covers the entire western boundary, with no possibility for access. The property to the south is owned by Orem City and will provide access to the property. The only option is to create a cul-de-sac or other turnaround. The applicants are proposing a private drive and turnaround that has been reviewed by city staff and can accommodate utilities and emergency services. The access will only accommodate four building lots, all of which can conform to the requirements of the Zoning and Subdivision Ordinances. Staff finds that the application meets this test of hardship.

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

The subject property can only be accessed by extending 360 West, an existing dead-end street. Although the subject property was zoned R8 and designated for residential development, prior single-family subdivisions and multi-family developments and the relatively steep grade have had the effect of eliminating all but the southern access point. Staff finds that the application meets this test of hardship.

- 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.*

As noted, other properties in this area and in the R8 Zone have been subdivided. The subject property is a two-acre parcel. The applicant's request for variance is not an attempt to develop smaller or more dense properties than otherwise permitted but is necessary to develop the property at all. The variance will allow the applicants to create four new lots on the two acres, each exceeding 15,000 square feet. The variance is essential for any development of the property. Staff finds that the application meets this test of hardship.

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

The General Plan is not negatively impacted by the requested variance, and the public interest is protected by the review and approval required for the subsequent subdivision. Staff finds that the application meets this test of hardship.

- 5. The spirit of the Zoning Ordinance is observed and substantial justice is done.*

The Zoning Ordinance contemplates and supports the residential subdivision of property like this. The applicants have not requested a variance in contradiction of the purpose or intent of zoning, and Staff finds that the application meets this test of hardship.

ACTIONS: The Board of Adjustments is designated by Orem City Code to review applications for variances to the Zoning and Subdivision Ordinance. The Board may approve or deny the request or may continue the public hearing to gather more information before rendering a decision.

RECOMMENDATION: Staff recommends the Board of Adjustment grant a variance to 17-7-7(D) for the property located generally at 1465 South 360 West, allowing a dead-end access exceeding six hundred fifty (650) feet in length based on the findings outlined in this report, and subject to the following conditions:

1. The applicant shall meet all requirements of the City Engineer for subdivision of the property.
2. The applicant shall meet all requirements of the Orem City Fire Department for the subdivision of the property.
3. The applicant shall meet all other requirements and regulations of the Zoning and Subdivision Ordinances.

CITY OF OREM
DRAFT BOARD OF ADJUSTMENT MINUTES
December 13, 2023

REGULAR MEETING

Place: City Council Chambers

At **6:05 p.m.** Chair Jeffreys called the meeting to order and gave the invocation.

Those present: Ott Dameron, Paul Crossett (via Zoom), Carlos Iglesias, Karen Jeffreys and Leslie Nelson, Board of Adjustment members; Jason Bench, Acting Development Services Director/Planning Division Manager; Cheryl Vargas and Makayla Wagstaff, Associate Planners, Grant Allen and Matt Taylor, Senior Planners; Gary McGinn and D. Jacob Summers, Legal Counsel; Ryan Wood, Lehi City Attorney

Those excused:

Mr. Dameron recused himself from the discussion and voting on this issue as he has a personal interest in it.

Ms. Jeffreys explained that Agenda Item 3.1 is a continuation of the meeting held on November 29, 2023. The final decision regarding the appeal will be delivered at this meeting.

Holiday Oil (Holiday) appeals City of Orem’s staff determination that their DRC application was incomplete for a Holiday Oil gas station and convenience store located generally at 1981 South Geneva Road in the C2 zone.

Board of Adjustment Action: Chair Jeffreys called for a motion to go to a closed session. Ms. Nelson moved go to a closed session to discuss the things learned. Ms. Jeffreys seconded the motion. Those voting aye: Paul Crossett, Carlos Iglesias, Karen Jeffreys and Leslie Nelson. The motion passed unanimously.

7:10 pm: The meeting reconvened and Chair Jeffreys called the meeting back into session. Chair Jeffreys moved to adjourn the closed session. Mr. Iglesias seconded the motion. Those voting aye: Paul Crossett (via Zoom), Carlos Iglesias, Karen Jeffreys and Leslie Nelson. The motion passed unanimously.

Mr. Iglesias read the proposed decision ([click here for recording](#))

Facts as presented:

- August 16, 2023 City filed an application to amend Article 22-5-3 and the zoning map to rezone the property from the C2 zone to the PO (Professional Office) zone. City’s application was scheduled to be heard before the Planning Commission on September 6, 2023.
- August 21, 2023, Holiday submitted their application for review which included a TIS. City staff processed the application and began its review.
- August 28, 2023, the Office of Orem City Mayor and City Council sent a letter to residents in the surrounding neighborhood which characterized Holiday’s application as a “completed application”. The Orem City Attorney’s office reviewed the letter before it went out to the residents. Holiday received this letter on August 30, 2023.
- August 29, 2023, Holiday received a packet of redline comments from the City of Orem DRC. The only transportation comment was to have the report submitted to UDOT for review and approval. Absent from the redline packet is notice of an insufficient TIS.
- September 5, 2023 Holiday Oil submitted a revised application responding to the August 29th redline packet.
- Prior to September 6, 2023 there is no evidence the City notified Holiday it’s application packet was incomplete.
- September 6, 2023 the Planning Commission considered the City’s zone change application and forwarded a positive recommendation to the Orem City Council.
- Sometime after September 6, 2023 the City determined that Holiday’s TIS was insufficient because it failed to meet the City ordinances.

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- September 20, 2023 the City notified Holiday that its application was incomplete. Absent from the record is an explanation for the City's delay in making this determination of incompleteness.

The dates on this case are of particular importance. When the City filed an application on August 16th to rezone the property from C2 to PO, the vested rights clock started ticking because, City ordinances identify the consideration of a proposal by the Planning Commission at the regularly scheduled meeting as the formal initiation of the legislative process. For purposes of the pending legislation doctrine the September 6, 2023 Planning Commission meeting effectively became Holiday's vested rights deadline.

If Holiday submitted a completed application before September 6th then it's right to have the application reviewed under the Land Use Regulations in effect of the date would be vested under the Utah code 10-9a-509. And any subsequent change to the zoning would only apply prospectively. ([click here for recording](#))

In this case, the Board concludes that as of September 6, 2023 Holiday's application was complete for purposes of its vested rights. The Board's conclusion is based on the following evidence:

- August 28, 2023 a letter to the residents issued by the Mayor and City Council that although the Orem City Council strongly opposed the project and took aggressive action unfortunately, Holiday submitted a complete application on August 21, 2023 for a site plan that is consistent with the current zoning regulations. And as a result, Orem City had to accept the application and will have no other option than to approve it if the City process is followed.
- During testimony at the November 29th meeting, the City admitted that this letter was reviewed by the City Attorney's Office before being issued. The Board finds that when a letter is issued on official Office of the Mayor and City Council letterhead, reviewed by the City Attorneys Office and contains legal conclusions such as, Holiday submitted a complete application, it is indicative of the City's determination that the application was complete especially in the absence of any evidence that the City provided notice to Holiday prior to September 6th to the contrary.
- When the City of Orem DRC returned the packet redlines on August 29, 2023 without any notice to Holiday that the TIS was insufficient, the Board finds that this is also evidence indicative of the City's determination that Holiday's application was complete. The City argues that because Holiday's application had not yet been reviewed by, and the packet of redlines was not produced by, the Real DRC but a review committee internally referred to as the Technical DRC the application could not have been considered complete. When pressed on this argument at the November 29th meeting, the City went even further and argued that the City does not consider any application complete until all redlines are resolved and the Real DRC votes at its public meeting to forward an application to the Planning Commission. There are two problems with the City's reasoning.
 - First, City ordinances do not identify a Technical DRC as a separate review committee apart from the Real DRC. There is nothing in the record to indicate that there is an official delineation between the Technical DRC and the Real DRC. The packet of redlines returned to Holiday on August 29th is titled City of Orem DRC. There is no indication, notation, footnote, etc. on the document that informs the developer that the packet of redlines are not from the Real DRC. There is nothing to alert the developer that the City has not yet determined whether an application is complete as it moves forward in the development review process. The City's position is inconsistent with its own ordinance. In Orem City Code 22-14-20(C) *Approval Process* says the following: "The Department of Development Services shall forward a complete site plan request to the Development Review Committee (DRC) members for review." From the objective evidence on the record, this is what happened in this case. Holiday's application was forwarded to the DRC for review who subsequently returned redline comments via a document entitled City of Orem DRC. That required Holiday's response and follow-up. Additionally, the ordinance makes no mention that all redlines must be resolved and that a vote by the Real DRC forwarding the application to the final approving authority is required before the City considers the application complete.
 - Finally, the record contains no evidence of extraordinary circumstances that prevented the City from making a determination prior to September 6th that Holiday's application was incomplete. When asked for an explanation of why it took until September 20th to inform Holiday that its

A complete video of the meeting can be found at www.orem.org/meetings

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1 application was incomplete the City’s answer was the application was still being reviewed by the
2 Development Services and Legal departments. The Board finds this explanation insufficient given
3 the importance of the September 6th Planning Commission meeting. The record is clear that the
4 communication between City staff and Holiday was ongoing and that Holiday’s application
5 review was proceeding efficiently. Consequently, the lack of evidence excusing the City’s failure
6 to inform Holiday prior to September 6th that its application was incomplete is conspicuous.
7 Allowing the City to engage in such a practice leaves an applicant in limbo as to whether its
8 application is ever truly complete and therefore its developmental rights vested. It is
9 fundamentally unfair to allow the City to postpone the decision on whether Holiday’s application
10 was complete until after the deadline for securing vested rights had passed. ([click here for](#)
11 [recording](#))

12
13 The Board finds that prior to the September 6th Planning Commission meeting the City considered Holiday’s
14 application complete. The City’s letter of August 28th, the packet of redlines returned by the City of Orem DRC on
15 August 29th, the City’s failure to notify Holiday prior to September 6th that its application was incomplete. Based on
16 the above, the Board finds that the City’s determination after September 6th that Holiday’s application was
17 incomplete was arbitrary, capricious and illegal. The City’s determination is therefore reversed and Holiday’s appeal
18 is granted. The City is ordered to proceed with the review of Holiday’s site plan application and final plat
19 application as described in City ordinances. The Board’s secretary is directed to comply with Orem City ordinance
20 2-16-13 as it pertains to the Boards decision. ([click here for recording](#))

21
22 Chair Jeffreys called for a motion.

23
24 **Board of Adjustment Action:** Ms. Nelson moved approve the decision. Mr. Iglesias seconded the motion. Those
25 voting aye: Paul Crossett (via Zoom), Carlos Iglesias, Karen Jeffreys and Leslie Nelson. The motion passed
26 unanimously.

27
28 Chair Jeffreys directed counsel, Mr. Wood, to issue the written decision within a week.

29
30 **Minutes:** Chair Jeffreys called for a motion to approve the draft minutes of the November 29, 2023 meeting. Mr.
31 Iglesias moved to approve the meeting minutes for November 29, 2023. Ms. Nelson seconded the motion. Those
32 voting aye: Paul Crossett ([via Zoom](#)), Carlos Iglesias, Karen Jeffreys and Leslie Nelson. The motion passed
33 unanimously.

34
35 **Adjourn:** Chair Jeffreys called for a motion to adjourn. Mr. Iglesias moved to adjourn. Ms. Jeffreys seconded the
36 motion. Those voting aye: Paul Crossett ([via Zoom](#)), Carlos Iglesias, Karen Jeffreys and Leslie Nelson. The motion
37 passed unanimously.

38
39 **Adjourn:** 7:24 p.m.

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42
43
44 Approved February 19, 2025 DRAFT