



STAFF REPORT

To: Summit County Council
From: Ray Milliner, County Planner
Date of Meeting: February 8, 2023
Type of Item: Code Amendment – Public Hearing
Process: Legislative

RECOMMENDATION: Staff recommends that the Summit County Council review the proposed language to amend setbacks from lakes, ponds, and perennial streams in the residential zoning districts in the Snyderville Basin Development Code, conduct a public hearing adopt the amendments in the attached ordinance.

Proposal

The purpose of the amendments is to clarify and define setback language regulating building setbacks from lakes, ponds, and streams.

Background

The Rural Residential (RR), Hillside Stewardship (HS), and Mountain Remote (MR) zones require:

1. The minimum setback from a naturally occurring year-round stream (other than East Canyon Creek) shall be one hundred feet (100') from the centerline of the stream.
2. The minimum setback from a lake, pond, or reservoir shall be one hundred feet (100')-from the high-water mark.

There are a few problems with this language:

- Neither naturally occurring year-round stream, lake, pond, nor reservoir are defined in the Code.
- There are loads of homes within the Basin that were built prior to the adoption of these regulations that are now non-complying structures (the homes surrounding the ponds in

Silver Springs Subdivision). Any time someone wants to do a modification or addition to these homes, they are put into the variance or special exception process to get approval of the project.

- Because of the lack of definitions, there are many gray areas where it is not clear whether the requirements should be applied or not (should a home be setback 100 feet from a small koi pond?)

Staff is proposing the following changes and definitions:

- The minimum setback from a ~~naturally occurring year-round stream~~ **River or Perennial Stream** (other than East Canyon Creek) shall be one hundred feet (100') from the ~~centerline of the stream~~ **Ordinary High Water Mark**.
- The minimum setback from a **Lake or Natural Pond** ~~lake, pond, or reservoir~~ shall be ~~one hundred feet (100')~~ **fifty feet (50')** from the **Ordinary High Water Mark**.

LAKE: A large body of still water formed naturally that is surrounded by land.

ORDINARY HIGH WATER MARK: The line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris.

POND, ARTIFICIAL: A small body of still water created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, recreation purposes, aesthetic ornamentation or as a landscape/architectural feature.

POND, NATURAL: A small body of still water that is surrounded by land. Natural ponds may arise naturally in floodplains, wetlands, as part of a river system, or may be created specifically for habitat restoration.

RESERVOIR: A large body of still water artificially created by excavating, diking, or damming dry land that is used for such purposes as storage of water, irrigation, or recreation.

RIVER: A natural stream of water of fairly large size flowing in a definite course or channel or series of diverging and converging channels. A river is fed along its course by converging tributaries.

STREAM, EPHEMERAL: Ephemeral streams or spring flows are channels that do not flow on a regular annual basis but flow only during major storm events. Their channels lack continuous bed and bank features or appear discontinuous over their reach. If they are not connected to water of the U.S., they are not afforded any protection under this Code.

STREAM, INTERMITTENT: The natural channel for water, having a continuous bed and bank, and which flows annually but not year- round.

STREAM, PERENNIAL: The natural channel for water having a continuous bed and bank, and which normally flows year-round. Irrigation ditches and canals are not considered Perennial Streams.

These definitions are identical to the definitions approved by the County Council in the Eastern Summit County Development Code. They clarify what constitutes a Perennial Stream, and Natural Pond and create consistent setbacks from them. The language reduces the setback requirement from a Natural Pond to 50' from 100' this is consistent with recommendations from State and Federal agencies. It also requires that measurements come from the ordinary high-water mark rather than from the centerline of the stream. This is consistent with the requirements of the Eastern Summit County Code.

Analysis

Section 10-7-3 of the Snyderville Basin Development Code states that whenever there is initiated an amendment to the Code, it must be reviewed by the Planning Commission who will deliver a recommendation to the County Council. The County Council, after holding a public hearing, shall approve, approve with modifications or deny the amendment according to the following criteria.

Criteria 1: The amendment shall be consistent with the goals, objectives, and policies of the general plan. **COMPLIES**

Analysis: Chapter 2 of the Snyderville Basin General Plan States:

“The Goal of Chapter 2: Promote sustainable Land Use Planning Principles that preserve Critical Lands, maintain neighborhood character, protect the economic base, prevent sprawl, and provide efficient delivery of services.

The proposed amendments to the RR, HR, and MR zone regulations will help maintain the neighborhood character of the various subdivisions throughout the Basin by making the regulations consistent and easy to understand.

Criteria 2: The amendment shall not permit the use of land that is not consistent with the uses of properties nearby. **COMPLIES**

Analysis: The proposed amendment will ensure that new properties are consistent with the surrounding properties nearby.

Criteria 3: The amendment will not permit suitability of the properties affected by the proposed amendment for the uses to which they have been restricted. **COMPLIES**

Analysis: The amendment will not permit suitability of the properties affected by the proposed amendment to the uses to which they have been restricted.

Criteria 4: The amendment will not permit the removal of the then existing restrictions which will unduly affect nearby property. **COMPLIES**

Analysis: The proposed Code language does not remove any existing restrictions that would unduly affect nearby property owners. They are designed to clarify existing language and make it consistent with other residential zones.

Criteria 5: The amendment will not grant special favors or circumstances solely for one property owner or developer. **COMPLIES**

Analysis: Staff finds no evidence that these regulations would constitute a special favor or create a favorable circumstance for a single property owner.

Criteria 6: The amendment will promote the public health, safety and welfare better than the existing regulations for which the amendment is intended to change. **COMPLIES**

Analysis: The proposed regulation will improve the neighborhood character of the areas where applicable, and ensure consistency with the rules.

Recommendation

Staff recommends that the Summit County Council review the proposed language to amend setbacks from lakes, ponds, and perennial streams in the residential zoning districts in the Snyderville Basin Development Code, conduct a public hearing adopt the amendments in the attached ordinance.

Findings of Fact

1. Neither naturally occurring year-round stream, lake, pond, nor reservoir are defined in the Snyderville Basin Development Code.
2. There are many homes within the Basin that were built prior to the adoption of these regulations that are now non-complying structures (the homes surrounding the ponds in Silver Springs Subdivision).
3. Any time someone wants to do a modification or addition to these homes, they are put into the variance or special exception process to get approval of the project.
4. Because of the lack of definitions, there are many gray areas where it is not clear whether the requirements should be applied or not.
5. One component in the goal of Chapter 2 of the Snyderville Basin General Plan is to maintain the neighborhood character.

6. The proposed amendment will ensure that new properties are consistent with the surrounding properties nearby.

Conclusions of Law:

1. The amendment is consistent with the goals, objectives, and policies of the General Plan.
2. The amendment will not permit the use of land that is not consistent with the uses of properties nearby.
3. The amendment will not permit suitability of the properties affected by the proposed amendment for the uses to which they have been restricted.
4. The amendment will not permit the removal of the then existing restrictions which will unduly affect nearby property.
5. The amendment will not grant special favors or circumstances solely for one property owner or developer.
6. The amendment will promote the public health, safety and welfare better than the existing regulations for which the amendment is intended to change.

Exhibits

Exhibit A. Proposed Ordinance

**SUMMIT COUNTY, UTAH
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING THE SNYDERVILLE BASIN
DEVELOPMENT CODE SECTION 10-2-4.E SETBACKS IN THE RURAL RESIDENTIAL (RR) ZONING
DISTRICT, SECTION 10-2-5.E SETBACKS IN THE HILLSIDE STEWARDSHIP (HS) ZONING DISTRICT,
10-2-6.E SETBACKS IN THE MOUNTAIN REMOTE ZONING DISTRICT AND 10-11-1 TERMS
DEFINED**

PREAMBLE

WHEREAS, Utah Code Annotated (“UCA”) §17-27a-102(b) provides that counties can enact all ordinances that they consider necessary or appropriate to govern, among other things, building setbacks; and,

WHEREAS, the goal of Chapter 2 of the Snyderville Basin General Plan is Promote sustainable Land Use Planning Principles that preserve Critical Lands, maintain neighborhood character, protect the economic base, prevent sprawl, and provide efficient delivery of services; and

WHEREAS, In furtherance of this goal, §10-1-1 of the Snyderville Basin Development Code provides that The Snyderville Basin General Plan was developed to was developed “to ensure that the resort and mountain character of the basin is to be embraced and protected, while suburban development patterns, which erode the unique character of the basin, is discouraged and, to the extent possible, prohibited.” and,

WHEREAS, The Snyderville Basin Development Code does not define Lakes, Ponds, or Streams.

WHEREAS this lack of definitions creates confusion on where and when setback rules should and shouldn’t be applied; and

WHEREAS the proposed regulations clarify what constitutes a Perennial Stream, and Natural Pond and create consistent setbacks from them; and

WHEREAS the Snyderville Basin Planning Commission held a public hearing on October 25, 2022; and

WHEREAS the Snyderville Basin Planning Commission recommended adoption of the amended sections of the Snyderville Basin Development Code on _____; and

WHEREAS, the Summit County Council held a public hearing on _____; and,

NOW, THEREFORE, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1. **SNYDERVILLE BASIN DEVELOPMENT CODE** The Snyderville Basin Development Code is amended as depicted in Exhibit A.

Section 2. **Effective Date.** This Ordinance shall take effect immediately after publication.

Enacted this ___ day of _____, 2022.

ATTEST:

SUMMIT COUNTY COUNCIL

Evelyn Furse
Summit County Clerk

Roger Armstrong, Chair

APPROVED AS TO FORM

David L. Thomas
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Stevens	_____
Councilmember Robinson	_____
Councilmember Hanson	_____
Councilmember Armstrong	_____
Councilmember Harte	_____

EXHIBIT A

PROPOSED AMENDMENTS TO CHAPTER 2

10-2-4: RURAL RESIDENTIAL (RR) ZONE

E. Setbacks: Unless otherwise indicated below, on a recorded plat or an approved site plan the minimum setback shall be:

Front setback	30 feet
Side setback	12 feet
Rear setback	12 feet

1. On a corner lot, one minimum front setback and one minimum side setback is required with the following provisions:
 - a. Any frontage with a driveway leading to a garage or parking space shall have a front setback.
 - b. The county engineering department shall review the application to ensure that no obstruction shall be placed in the sight triangle as defined by the American Association Of State Highway And Transportation Officials (AASHTO) intersection control definitions.
2. The minimum setback from Highways 224, 40, 248 and Interstate 80 rights of way shall be one hundred feet (100').
3. The minimum setback from Kilby Road, Rasmussen Road, Bitner Road, North Pace Lane, the U.S. 40 Frontage Road, and other frontage roads rights of way shall be sixty feet (60').
4. The minimum setback from any wetland shall be forty feet (40').
5. The minimum setback from the ~~centerline~~ **Ordinary High-Water Mark** of East Canyon Creek shall be one hundred fifty feet (150').
6. The minimum setback from a ~~naturally occurring year round stream~~ **River or Perennial Stream** (other than East Canyon Creek) shall be one hundred feet (100') from the ~~centerline of the stream~~ **Ordinary High Water Mark**.
7. The minimum setback from a ~~Lake or Natural Pond lake, pond, or reservoir~~ shall be ~~one hundred feet (100')~~ **fifty feet (50')** from the ~~high water mark~~ **Ordinary High Water Mark**.
8. In cases where the property lines extend to the center of the road the minimum front setback from the centerline of the road shall be fifty-five feet (55').

10-2-5: HILLSIDE STEWARDSHIP (HS) ZONE:

E. Setbacks: Unless otherwise indicated below, on a recorded plat or an approved site plan the minimum setback shall be:

Front setback	30 feet
Side setback	12 feet
Rear setback	12 feet

3. On a corner lot, one minimum front setback and one minimum side setback is required with the following provisions:
 - a. Any frontage with a driveway leading to a garage or parking space shall have a front setback.
 - b. The county engineering department shall review the application to ensure that no obstruction shall be placed in the sight triangle as defined by the American Association Of State Highway And Transportation Officials (AASHTO) intersection control definitions.
4. The minimum setback from Highways 224, 40, 248 and Interstate 80 rights of way shall be one hundred feet (100').
5. The minimum setback for Kilby Road, Rasmussen Road, Bitner Road, North Pace Lane, the U.S. 40 Frontage Road, and other frontage roads rights of way shall be sixty feet (60').
6. The minimum setback from any wetland shall be forty feet (40').
7. The minimum setback from the ~~centerline~~ **Ordinary High-Water Mark** of East Canyon Creek shall be one hundred fifty feet (150').
8. The minimum setback from a ~~naturally occurring year-round stream~~ **River or Perennial Stream** (other than East Canyon Creek) shall be one hundred feet (100') from the ~~centerline of the stream~~ **Ordinary High Water Mark**.
9. The minimum setback from a **Lake or Natural Pond** ~~lake, pond, or reservoir~~ shall be ~~one hundred feet (100')~~ **fifty feet (50')** from the ~~high water mark~~ **Ordinary High Water Mark**.
10. With the above exceptions, the minimum front yard setback shall be thirty feet (30'), unless otherwise indicated on a recorded plat or an approved site plan. In cases where the property lines extend to the center of the road, the minimum setback from the centerline of the road shall be fifty five feet (55'). The front setback in Summit Park shall be fifteen feet (15') from the front property line.
11. The front setback in Summit Park shall be fifteen feet (15') from the front property line, except in the following circumstance:
 - c. If more than fifty percent (50%) of the "lot frontage", defined as that property that abuts the front property line, exceeds thirty percent (30%) slope, measured for a distance of fifteen feet (15') back from the front property line, the front setback shall be measured as fifteen feet (15') from the edge of the road pavement. However, all structures and improvements, excluding driveways, are to be fully contained on the lot.

10-2-6: MOUNTAIN REMOTE (MR) ZONE:

E. Setbacks: Unless otherwise indicated below, on a recorded plat or an approved site plan the minimum setback shall be:

Front setback	30 feet
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Side setback	12 feet
Rear setback	12 feet

1. On a corner lot, one minimum front setback and one minimum side setback is required with the following provisions:
 - a. Any frontage with a driveway leading to a garage or parking space shall have a front setback.
 - b. The county engineering department shall review the application to ensure that no obstruction shall be placed in the sight triangle as defined by the American Association Of State Highway And Transportation Officials (AASHTO) intersection control definitions.
2. The minimum setback from Highways 224, 40, 248, and Interstate 80 rights of way shall be one hundred feet (100').
3. The minimum setback from any frontage road right of way shall be sixty feet (60').
4. The minimum setback from any wetland shall be forty feet (40').
5. The minimum setback from the ~~centerline~~ **Ordinary High Water Mark** of East Canyon Creek shall be one hundred fifty feet (150').
6. The minimum setback from a ~~naturally occurring year round stream~~ **River or Perennial Stream** (other than East Canyon Creek) shall be one hundred feet (100') from the ~~centerline of the stream~~ **Ordinary High Water Mark**.
7. The minimum setback from a **Lake or Natural Pond** ~~lake, pond, or reservoir~~ shall be ~~one hundred feet (100')~~ **fifty feet (50')** from ~~the high water mark~~ **Ordinary High Water Mark**.
8. In cases where the property lines extend to the center of the road the minimum front setback from the centerline of the road shall be fifty-five feet (55').

10-11-1 Terms Defined

LAKE: A large body of still water formed naturally that is surrounded by land.

ORDINARY HIGH-WATER MARK: The line on the shore established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, and/or the presence of litter and debris.

POND, ARTIFICIAL: A small body of still water created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, recreation purposes, aesthetic ornamentation or as a landscape/architectural feature.

POND, NATURAL: A small body of still water that is surrounded by land. Natural ponds may arise naturally in floodplains, wetlands, as part of a river system, or may be created specifically for habitat restoration.

RESERVOIR: A large body of still water artificially created by excavating, diking, or damming dry land that is used for such purposes as storage of water, irrigation, or recreation.

RIVER: A natural stream of water of fairly large size flowing in a definite course or channel or series of diverging and converging channels. A river is fed along its course by converging tributaries.

STREAM, EPHEMERAL: Ephemeral streams or spring flows are channels that do not flow on a regular annual basis but flow only during major storm events. Their channels lack continuous bed and bank features or appear discontinuous over their reach. If they are not connected to a water of the U.S., they are not afforded any protection under this Code.

STREAM, INTERMITTENT: The natural channel for water, having a continuous bed and bank, and which flows annually but not year- round.

STREAM, PERENNIAL: The natural channel for water having a continuous bed and bank, and which normally flows year-round.