



STAFF REPORT

To: Summit County Council
From: Ray Milliner, County Planner
Date of Meeting: April 26, 2023
Type of Item: Code Amendment
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 and adopt the amendments in the attached ordinance.

Proposal

The amendments clarify and define building setbacks from lakes, ponds, and streams.

Background

On February 8, 2023, the County Council conducted a public hearing, and reviewed amendments to the Snyderville Basin Development Code for setbacks from streams, lakes, and ponds. Council members provided feedback:

- The definitions are vague. The definitions were interchangeable (there was no line defining when a pond becomes a lake, or a lake becomes a pond). If the rule is the same for each, why not combine the definitions.
- The 150-foot setback from East Canyon Creek is unnecessary. The setback from East Canyon Creek should be the same as from other streams.
- Define irrigation canals/ditches.
- Figure out what other jurisdictions do.
 - Pitkin County Colorado (Aspen): Setback 100 feet from “blue line” streams identified on USGS maps of the area. No setback from ponds or lakes. Separate riparian regulations.

- San Miguel County Colorado (Telluride): Structures must be setback 15 feet from the edge of a stream.
- Eagle County Colorado (Vail): Setbacks determined on individual basis through GIS aided analysis. Separate riparian regulations.
- Teton County Wyoming (Jackson): Setback 100 feet from ponds, lakes, rivers, and streams. 15-foot setback from irrigation ditches/canals.
- Teton County Idaho (Victor): Setback 100 feet from riparian areas (includes perennial streams, rivers, and wetlands). Setback 50 feet from ponds/lakes larger than ½ acre in size.
- Blaine County Idaho (Sun Valley): Streams classified as 1 – 4 class 1 streams 75-foot setback, class 2, 50-foot setback, class 3 and 4, 25-foot setback. No setbacks from ponds or lakes. Separate regulations for riparian areas.

Proposed Changes:

- Change 150-foot setback requirement from East Canyon Creek to 100 feet.
- Create a setback of 15 feet from irrigation canals and ditches.
- Reduce setback from Lake or pond greater than ¼ acre in size from 100 to 50 feet.
- Create an exception in the RR zone for the ponds in Silver Summit and North Shore.
- Definitions. Except for Lake/Pond, each definition is taken from the Army Corps of Engineers:
 - a. **IRRIGATION DITCH**: An irrigation ditch is a man-made feature and/or an upland swale that either conveys water to an ultimate irrigation use or place of use, or that moves and/or conveys irrigation water (e.g., “run-off” from irrigation) away from irrigated lands. Irrigation ditches may include the distribution system or parts thereof, consisting of manmade canals, laterals, ditches, siphons, and/or pipes, or pump systems.
 - b. **LAKE/POND**: A body of standing water larger than one-half (1/4) acre in size, that is either natural or man-made, in a depression of land or expanded part of a river, stream or creek.
 - c. **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.
 - d. **RIVER/STREAM/CREEK, PERENNIAL**: A perennial river/stream/stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from snow melt and rainfall is a supplemental source of water for stream flow.

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.

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 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 and 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 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 public health, safety and welfare better than the existing regulations for which the amendment is intended to change.

Exhibits

- Exhibit A. Proposed Ordinance
- Exhibit B. Examples of Ponds larger than ¼ acre

**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 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 River/Creek/Stream, and Lake/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 October 15, 2023; and

WHEREAS the Summit County Council held a public hearing on February 8, 2023; 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 _____, 2023.

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 |
| Front Setback from Lots/Parcels where the property line extends to the centerline of the road | 55 feet from the centerline of the road |
| Setback from Kilby Road, Rasmussen Road, Bitner Road, North Pace Lane, the U.S. 40 Frontage Road, and other frontage roads rights of way | 60 feet |
| Setback from Highways 224, 40, 248 and Interstate 80 rights of way | 100 feet |
| *Setback from a Lake or Pond greater than ¼ acre in size | 50 feet from Ordinary High-Water Mark |
| Setback from a Perennial River/Stream/Creek | 100 feet from Ordinary High-Water Mark |
| Setback from an Irrigation Canal/Ditch | 15 feet |
| Setback from a Wetland | 40 feet |

***The Lake/Ponds located in the Silver Springs and North Shore subdivisions are exempt from this rule.**

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 of East Canyon Creek shall be one hundred fifty feet (150').~~
6. ~~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.~~
7. ~~The minimum setback from a lake, pond, or reservoir shall be one hundred feet (100') from the 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 |
| Front Setback from Lots/Parcels where the property line extends to the centerline of the road | 55 feet from the centerline of the road |
| Setback from Kilby Road, Rasmussen Road, Bitner Road, North Pace Lane, the U.S. 40 Frontage Road, and other frontage roads rights of way | 60 feet |
| Setback from Highways 224, 40, 248 and Interstate 80 rights of way | 100 feet |
| Setback from a Lake or Pond greater than ¼ acre in size | 50 feet from Ordinary High-Water Mark |
| Setback from a Perennial River/Stream/Creek | 100 feet from Ordinary High-Water Mark |
| Setback from an Irrigation Canal/Ditch | 15 feet |
| Setback from a Wetland | 40 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 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').~~

~~4. The minimum setback from any wetland shall be forty feet (40').~~

~~5. The minimum setback from the centerline of East Canyon Creek shall be one hundred fifty feet (150').~~

~~6. 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.~~

~~7. The minimum setback from a lake, pond, or reservoir shall be one hundred feet (100') from the high water mark.~~

~~8. 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.~~

2. 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 |
| Side setback | 12 feet |
| Rear setback | 12 feet |

| | |
|--|---|
| Front Setback from Lots/Parcels where the property line extends to the centerline of the road | 55 feet from the centerline of the road |
| Setback from Kilby Road, Rasmussen Road, Bitner Road, North Pace Lane, the U.S. 40 Frontage Road, and other frontage roads rights of way | 60 feet |
| Setback from Highways 224, 40, 248 and Interstate 80 rights of way | 100 feet |
| Setback from a Lake or Pond greater than ¼ acre in size | 50 feet from Ordinary High-Water Mark |
| Setback from a Perennial River/Stream/Creek | 100 feet from Ordinary High-Water Mark |
| Setback from an Irrigation Canal/Ditch | 15 feet |
| Setback from a Wetland | 40 feet |

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- 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 of East Canyon Creek shall be one hundred fifty feet (150').~~
- ~~6. 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.~~
- ~~7. The minimum setback from a lake, pond, or reservoir shall be one hundred feet (100') from the 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').~~

To be added to Chapter 10-11-1 Terms Defined

IRRIGATION DITCH: An irrigation ditch is a man-made feature and/or an upland swale that either conveys water to an ultimate irrigation use or place of use, or that moves and/or conveys irrigation water (e.g., "run-off" from irrigation) away from irrigated lands. Irrigation ditches may include the distribution system or parts thereof, consisting of manmade canals, laterals, ditches, siphons, and/or pipes, or pump systems.

LAKE/POND: A body of standing water larger than one-half (1/4) acre in size, that is either natural or man-made, in a depression of land or expanded part of a river, stream or creek.

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.

RIVER/STREAM/CREEK, PERENNIAL: A perennial river/stream/stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from snow melt and rainfall is a supplemental source of water for stream flow.



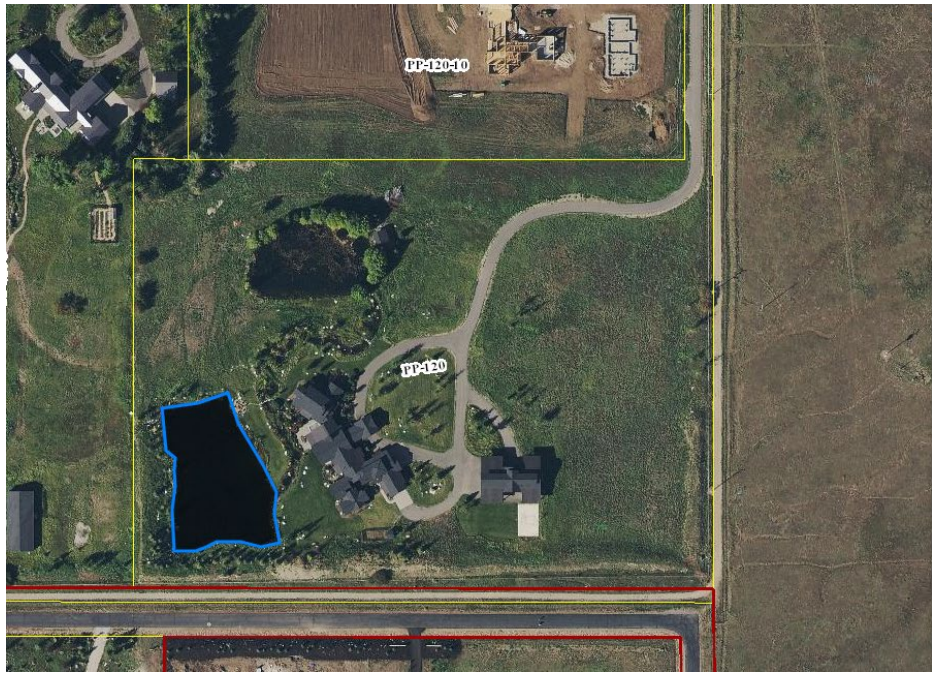
Measurement ⤴

Acres ▾

Measurement Result

0.31 Acres

Clear



Acres ▾

Measurement Result

0.62 Acres

Clear

