



July 10, 2025

Request Type: Variance
File No: LUHO-25-006
Address: 1277 East Ridgedale Lane
Applicant: Greg Whisenant
Prepared by: Brad Sanderson, AICP & Jake Green

SUMMARY DESCRIPTION

Greg Whisenant (Applicant) has filed a land use application, seeking a variance to construct a new residential home within a sensitive land area containing a surface fault rupture hazard area, (fault line) also known as a “topographical” or “subsurface feature”. The subject property is located at 1277 East Ridgedale Lane.

The Applicant is proposing to remove the entire residential structure built in 1961, but keep the foundation and then reconstruct a new residential structure in accordance with today’s building codes and standards utilizing the same foundation. However, according to Millcreek’s adopted Sensitive Lands Map, the entire 0.87-acre property is located within a fault line study area. The Sensitive Lands Map more specifically depicts the home as being on top of the actual fault line.

Millcreek’s code, Section 18.60.050.A states “a noncomplying structure may be continued so long as no additions or enlargements are made thereto and no structural alterations are made therein, except as permitted by this chapter or as may be required by law. If a noncomplying structure is removed from the lot or parcel where it was located, each future structure on such lot or parcel shall conform to the provisions of this title.”. However, because the applicant will be removing all of the existing structure, it is thereby disqualified as a noncomplying structure.

More particularly, the applicant is requesting a variance to the following Millcreek codes:

- 1) Millcreek Code Section 18.61.100.C.3., states that “a geotechnical report is required for any development on property subject to a surface fault rupture study area, including additions to existing single-household dwellings”.

Furthermore, Sensitive Lands, are defined as any area that is located within affected areas identified on Millcreek’s Sensitive Lands Maps or, containing sensitive lands features or, areas affected by geological hazards as identified in a Geotechnical Report, topographical survey, or soils study.
Millcreek Code §18.61.020.A

Sensitive land features include either topographical or subsurface features including, “soils, saturated soils, and soil structures such as areas of liquefaction potential, surface fault rupture hazard areas, and debris flow areas. Soil types used to determine surface stability, foundation stability, movement



potential, depth to bedrock, and shallow water table levels, may also reveal factors to consider for avoidance/preservation and/or design modifications when determining the extent of sensitive lands. Millcreek Code §18.61.030.B.

- 2) Millcreek’s code contains certain development limitations and prohibitions on properties with topographical or subsurface features such as, “fault lines, scarps, landslides, rock outcroppings, rock-fall, alluvial, fans and mud/debris flow areas”; stating that “all new development (...) “shall avoid and preserve” these areas “as undisturbed and natural open space...”. Furthermore, “these topographical features shall be avoided and mitigated as recommended by a Geotechnical Engineer licensed to practice in the State of Utah”. Millcreek Code §18.61.080.A-B.

To help determine limits of disturbance or areas “in which construction and development activity shall be contained, including development and construction of the principal building, accessory structures, recreation areas, utilities, services, driveways, storm drainage, and other similar improvements”, Millcreek requires an applicant to provide a Level 2 Geotechnical Report “for any development on property subject to a surface fault rupture study area, including additions to existing single-household dwellings.”.

Millcreek Code §18.61.070.B., Millcreek Code §18.61.100.C & §18.61.100.D, (see also Millcreek Code §18.61 Table 18.61-1)

Millcreek’s code, Section 18.97.030 defines a Geotechnical Report, Level 2 as “a Geotechnical report for a development in a Sensitive Lands area that includes an analysis of any topographical or subsurface feature on the property that is identified as a sensitive lands area and includes other items as required by the Engineering Review Checklist.”

“Determinations and mitigation techniques proposed that, when reviewed by the City Engineer and City Geologist, do not clearly resolve any identified issues that may be subject to a Peer Review at the City’s discretion.” “The City Engineer and City Geologist shall have the right to review, provide comments, suggest changes, and ultimately approve, deny, or modify the mitigation techniques”. Millcreek Code §18.61.050.

The applicant has retained the services of Gordan Geotechnical Engineering, Inc., a licensed geologist firm within the state of Utah to conduct a preliminary fault study which found evidence of a surface rupture within an exploration fault trench conducted on the property, running in the northeast-to-southwest direction. The applicant’s geologist determined a setback distance of 24 feet from either side of the found surface rupture area.

- 3) Millcreek’s code, Section 18.97.030 defines a Fault Setback as “an area on either side of a fault within which construction of structures for human occupancy or critical facilities is not permitted.”.



The applicant's geologist notes that, "the fault setback covers most of the lot" and, in their opinion, "a formal fault study is not warranted on the site as long as there are no changes to the footprint of the existing structure, and that the fault hazard needs to be disclosed with the property deed or title" (see application response Appendix 2).

In order to fulfill the purposes of the sensitive lands code, "City Staff and the City Geologist shall review any proposed land use that requires preparation of a geotechnical and/or sensitive lands/geologic hazard report under this chapter and as shown on the Sensitive Lands Map to determine the possible risks to the safety of persons, property or City infrastructure from Sensitive Lands."

Millcreek Code §18.61.110.A

Both the applicant's geologist and city's third-party geologist have discussed the circumstances associated with the property in which both agree that the entirety of the property is likely encumbered by the fault line and sensitive lands study area, based on the City's Sensitive Lands Map and as also corroborated by the preliminary study. In the opinion of the applicant's geologist "additional fault studies are not warranted at the site if there are no changes to the footprint of the existing structure". However, without a complete and formal fault study/report, Millcreek's third-party geologist cannot review, analyze, or formally suggest modifications, for approval. Nonetheless, Millcreek's geologist has made additional recommendations, which are provided within the recommendations contained within this report.

The applicant has also provided an opinion made by a structural engineer stating that "the existing foundation is in exceptionally good condition".

SCOPE OF DECISION

Utah Code [10-9a-702](#), allows "*Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.*"

Millcreek Zoning Code 18.15.040 and similarly, the above referenced Utah Code state "*The authority may grant a variance only if:*

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



The applicant has provided a written response to the above-listed criteria, as it applies to their specific request for a variance (see applicant's request letter, attached).

Furthermore, Millcreek's Zoning Code states,

1. *In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the LUHO may not find an unreasonable hardship unless the alleged hardship:*
 1. *Is located on or associated with the property for which the variance is sought; and*
 2. *Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
2. *In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the LUHO may not find an unreasonable hardship if the hardship is self-imposed or economic.*
3. *In determining whether or not there are special circumstances attached to the property under Subsection (1)(a), the appeal authority may find that special circumstances exist only if the special circumstances:*
 1. *Relate to the hardship complained of; and*
 2. *Deprive the property of privileges granted to other properties in the same zone.*
4. *The LUHO may impose conditions on an approval of a variance request to:*
 1. *Mitigate any harmful effects of the variance; or*
 2. *Serve the purpose of the standard or requirement that is waived or modified.*
5. *The LUHO may not grant:*
 1. *A variance that is greater than the minimum variation necessary to relieve the unreasonable hardship the applicant can demonstrate;*
 2. *A temporary variance; or*
 3. *A use variance.*

STAFF FINDINGS, ANALYSIS & CONCLUSIONS

Staff Findings:

1. According to records on file with the Office of the Salt Lake County Assessor, the property is 0.87 acres in size and contains a residential structure that was constructed in 1961.
2. The dimensions of the property are approximately 100 linear feet wide by 275 linear feet deep.
3. According to the applicant's letter, the northern and southern 15 feet along both the long sides of the property, are encumbering with a 3:4 slope. Without installing retaining walls, the property has roughly 60 feet of natural buildable width.
4. Because the applicant will be removing all but the foundation of the existing structure, the alterations will be too substantial to qualify as a noncomplying structure.
5. Millcreek's code, Section 18.61.020, defines a Sensitive Lands Area as "any area that is either:
 - 1) Located within the affected areas identified on the Sensitive Lands Map, adopted and amended from time to time by the Millcreek City Council; or
 - 2) Contains sensitive lands features as described in this section; or
 - 3) Affected by geological hazards identified in a Geotechnical Report, a topographical survey, or soils study."



6. Millcreek's Code, Section 18.61.030.B, defines Subsurface Features as "soils, saturated soils, and soil structures such as areas of liquefaction potential, surface fault rupture hazard areas, and debris flow areas. Soil types used to determine surface stability, foundation stability, movement potential, depth to bedrock, and shallow water table levels, may also reveal factors to consider for avoidance/preservation and/or design modifications when determining the extent of sensitive lands."
7. Millcreek's code, Section 18.61.080.B, states "Fault lines, scarps, landslides, rock outcroppings, rock-fall, alluvial, fans and mud/debris flow areas: These topographical features shall be avoided and mitigated as recommended by a Geotechnical Engineer licensed to practice in the State of Utah."
8. Millcreek's code, Section 18.61.100.C.3., states that "a geotechnical report is required for any development on property subject to a surface fault rupture study area, including additions to existing single-household dwellings."
9. "The owner of an existing property or a lot or parcel of record legally created prior to the adoption of this chapter is not entitled to a building permit, unless that building permit fully complies with this chapter's requirements, and all other applicable requirements. These requirements protect the public health, safety, and welfare of the community, and may prevent development on sensitive lands, especially steep slopes, areas with hazardous soils, and other sensitive lands features.
Millcreek Code §18.61.140.E

Staff Analysis:

The burden of justifying a request for a variance is on the applicant. See Utah Code §10-9a-702(3) and City Code §18.15.040 (see applicant's application and response).

1. ***Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;***

In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the LUHO may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. If the hardship is self-imposed or economic. §18.15.040

Staff Response:

- Requiring the applicant to provide the required complete geotechnical study, regardless of the presumed outcome, recommendations, or acknowledgement of risks does not, in-and-of-itself, cause an unreasonable hardship. Staff acknowledge there is an economic cost to such studies which are likely to produce similar data as presumed. A full analysis and recommendation(s) cannot be determined without a complete study.



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

In determining whether or not there are special circumstances attached to the property under Subsection (1)(a), the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone. §18.15.040

Staff Response:

Based on Millcreek's Sensitive Lands Map and preliminary studies conducted by the applicant's geologist, the property appears to be mostly encumbered with a geological hazard.

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

Staff Response:

Granting variance only releases the applicant from spending additional funds on complete geotechnical study/report which is likely to affirm the already presumed risks associated with building upon or within close proximity with a geological hazard.

It is presumed that most geologists and/or structural engineers would not give a positive recommendation to build at all on the property. However, denying the property owner the right to build or rebuild may be considered as denying the essential enjoyment and property right possessed by other properties in the same district.

Furthermore, it is assumed that building a new structure using present day materials, codes and standards will be superior to those used when the original 1960's structure was built.

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

Staff Response:

One of the primary purposes of the general plan, is guide development in a manner which is both compatible with the surrounding environment, as well as to protect and preserve the health, safety, and general welfare of the public. The property has contained a residential structure on it from the early 1960's to the present date. The applicant is not proposing to increase the number of dwelling units or footprint of the existing building. The applicant is proposing to remove and construct a new structure using the present-day building codes, standards and materials which have evolved and are, in many ways, superior to those used in previous decades.



5. The spirit of the land use ordinance is observed, and substantial justice is done.

Staff Response:

- If the applicant acknowledges the existence of the known fault line, the risks associated with building within the area and holds the city harmless from any future property damage or loss of life in the event of a catastrophe.

Conclusion:

Based on the above findings and other supporting documents contained within this report, the following conclusion(s) can be made:

1. Millcreek's Sensitive Lands Map seems to be affirmed by the preliminary study conducted by the applicant geologist, showing the property is uniquely encumbered by a subsurface fault line.
2. According to Millcreek code, "A geotechnical report is required for any development on property subject to a surface fault rupture study area, including additions to existing single-household dwellings.
3. Millcreek's code further states that such topographical features shall be avoided and mitigated as recommended by a Geotechnical Engineer.
4. The complete removal of the existing house is considered to be a substantial change, and therefore is not considered as an "alteration" to a noncomplying structure.
5. Building a new structure, using present-day materials, codes, standards, etc. are logically and typically better than other methods used in previous decades.
6. It is Staff's opinion that the applicant has not met their burden of justifying a request for a variance, according to the criteria listed in Utah Code § 10-9a-702(3) and City Code §19.92.050 and therefore, the request for a variance is not supported by Staff.

Recommendations:

The following recommendation is made by the city's third-party geologist:

"Understanding that the property is significantly impacted by a known active fault that runs through the middle of the property from Southeast to Northwest, and knowing that the existing home already straddles the fault as previously investigated and identified, and knowing that based on current codes, no new structure can be built on the property without likely crossing the fault again, the city's geologist recommends the following steps be followed at this property.

- a. Pursue a variance on this property to allow the home to be demolished, while fully retaining the existing foundations, and allow the property to be re-built upon the existing foundations using newer, safer technologies to improve the structural stability of home.
- b. Owner must record on the property plat, on recording documents and on all approvals for this remodel that they are aware of the risks in proceeding in this direction and that despite their best efforts and use of current construction practices



which are intended to mitigate earthquake related hazards , the fault could at any time rupture and cause complete structural failure of the existing or reconstructed home.

- c. Owner must fully agree to absolve Millcreek City of any responsibility with regard to the renovation and remodel of the house knowing that the home is already constructed in a location that would not be permitted for construction under current understandings and current codes. Owner must agree for themselves, their heirs, executors, administrators and assigns, to hold harmless Millcreek City, from any and all liability associated with any loss or damages sustained by them in connection with the continuation of said construction/remodeling project at the Property or arising out of their failure to build in accordance with the current Millcreek City code."

SUPPORTING DOCUMENTS

- Sensitive Lands Map
- Applicants' Application and Variance Request

Applicant's Request Letter

- 1. State how the literal enforcement of the zoning ordinance would cause an unreasonable hardship that is not necessary to carry out the general purpose of the land use ordinance. (NOTE: A hardship must be associated with the property for which the variance is sought, comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood, and cannot be self-imposed or economic, 10-9a-702 (b)).**

The property is an irregular shaped lot, rectangular, measuring roughly 100 feet wide and 275 feet deep, running in a northwest to southeast direction. [Please see Appendix 1: Aerial View, taken from Millcreek Planning and Zoning Maps.]

On each of the “long” sides of the property, there is a slope of about 3:4 rise over run across 20 feet that steps down; that is to say, the adjacent commercial property is roughly 15 feet higher, and the adjacent residential neighbors on Ridgedale Lane are roughly 15 feet lower. This result of this stepdown geography is that the functionally “usable” flat area is only 60 feet across.

As you can see from the image, the challenge with the lot is that there is a large subterranean fault line that runs directly through the center (in the long direction) of this 60 foot span, including directly through the house itself. In consultation with a geotechnical engineer, two trenches were dug on site in 2018 that 1) verified the fault, and 2) confirmed that once the setback requirements were factored in, there was no alternative buildable location on the site. [Please see attached Appendix 2: Letter from Geotechnical Engineer.]

The lot is landlocked; private access to the property is only where the driveway meets the public road on Ridgedale Lane. It is otherwise surrounded by private property on every side.

2. What special circumstances are attached to the property that does not generally apply to other properties in the same land use zone?

The special circumstances attached to this property are several:

- a. It is located directly on a subterranean fault;
- b. There is no alternative buildable location on the property that falls outside of the setback area;
- c. The home is in need of repair, and the owner is willing to make these repairs to ensure the highest level of safety under the circumstances;
- d. The existing foundation is sound, as verified in the attached letter from Bill Whitney, the structural engineer, indicating that visual inspection shows no cracks or problems whatsoever despite the age of the foundation and home which is more than 60 years old. [Please see attached Appendix 3: Letter from Structural Engineer.]

3. How would the granting of a variance be essential to the enjoyment and substantial property right possessed by other property in the same land use zone?

Granting a variance is essential to the enjoyment of a substantial property right possessed by other property in the same land use zone because it will allow the owner to make the alterations needed to make the repairs the home needs to ensure the highest level of safety for occupants of the home.

Without the variance, the owner cannot make improvements to the home under the City's current interpretation of the planning, building and zoning ordinances. Therefore, the residents will be prevented from making structural changes to the home, forcing them to live in the home in its current state of disrepair, endangering them unnecessarily.

Other property in the same land use zone have no constraints in their ability to significantly alter their homes as long as they observe existing land use requirements.

[Please see Appendix 4: Exterior Photos of Home.]

4. How will this variance affect the General Plan for Millcreek City?

Granting this variance will contribute to Millcreek City's General Plan by maintaining its objectives of being a bedroom community with a vibrant commercial engine. This parcel is already approved for residential housing and there are dozens of homes, apartments and businesses that are in the same circumstances. This owner in particular is a strong Millcreek supporter, wanting to continue contributing to the community by investing in the property for the long term.

5. How will the spirit of the land use ordinance be observed and substantial justice be done?

Granting the variance is the best option to uphold the spirit of the land use ordinance for several reasons:

- The parcel is already approved and has been occupied by the same home for more than 60 years without incident;
- The City has continuously provided services and collected taxes for the parcel, demonstrating its explicit support for maintaining the property as a dwelling that is suitable for human occupancy;
- The City has expressed its concerns about safety and a general consensus about how to proceed has been reached between the homeowner and City officials.
- The homeowner is willing to consider various alternatives to maximize safety to address the City's concerns (including creative approaches such as dividing the home into two separate but associated buildings). However, Millcreek City seems most comfortable with the plan to rebuild the home within the existing footprint.
- While plans are not finalized pending resolution of this issue, the homeowner is planning to rebuild on a single level rather than preserving the split level as the home is currently constructed.

Appendix 1: Aerial View

1277 Ridgedale Lane, Millcreek, Utah 84106

Note: the black line indicates the estimated location of the subterranean fault.



Appendix 2: Letter from Geotechnical Engineer (2 pages)



May 29, 2025
Job No. 572-001-18

Greg Whisenant
1277 Ridgedale Lane
Millcreek, Utah 84106

Attention: Mr. Greg Whisenant

Ladies and Gentlemen:

Re: Summary Letter
Surface Faulting Consultation Letter
Proposed Whisenant Remodel
1277 Ridgedale Lane
Millcreek, Utah

Gordon Geotechnical Engineering, Inc (G²) previously completed a very preliminary fault study at the existing residential lot. A fault trench was excavated in a northeast-to-southwest direction across the western portion of the lot, but a formal report was never produced. It is our understanding that the homeowner is planning on remodeling the structure. No additions or changes to the footprint of the structure are planned.

Our preliminary fault study found evidence of surface rupture in the exploration trench. A setback of 24 feet on each side of the fault was determined based on the amount of displacement in the trench. Due to the narrow lot, the fault setback covers the majority of the lot.

It is our understanding that fault studies are required for new structures in Millcreek City. In our opinion, additional fault studies are not warranted at the site if there are no changes to the footprint of the existing structure. We recommend that the known fault hazard be disclosed with the property deed or title.

Gordon Geotechnical Engineering, Inc.
4426 South Century Drive, Suite 100
Salt Lake City, Utah 84123

Tel: 801-327-9600
Fax: 801-327-9601
www.gordongeotech.com

Greg Whisenant

Job No. 572-001-18
Surface Fault Consultation
May 29, 2025



If you have any questions or require additional information, please do not hesitate to contact us.

Respectfully submitted,

Gordon Geotechnical Engineering, Inc.

A handwritten signature in blue ink, appearing to read 'Patrick R. Emery', is written over the company name.

Patrick R. Emery, State of Utah No. 7941710
Professional Engineer/Geologist

PRE:sn

Addressee (email only)

Appendix 3: Letter from Structural Engineer



To: Millcreek City Planner

April 23, 2025

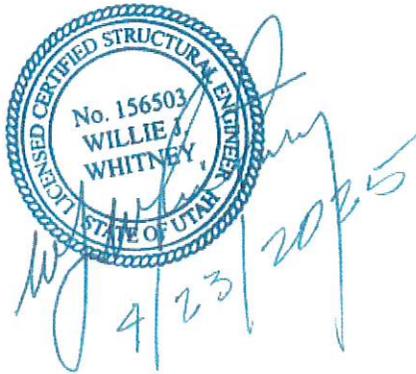
Re: Foundation inspection for 1227 Ridgedale Lane, Millcreek City, Utah

Dear Sir:

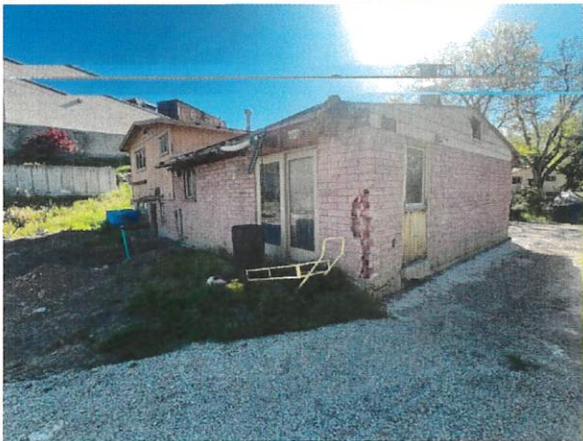
On April 22, 2025 RT Engineers investigated the total structure and foundation for the house located at 1227 Ridgedale, Utah. The results of that investigation indicate that the foundation is in exceptionally good condition. The basement concrete walls have no visible cracks or water damage even considering the age of the building. It is my opinion that no changes should be made to the foundation with the future removal of the structure above ground and redesigning the building as a one story building rather than the current split level arrangement This would be a great improvement to the current conditions with the use of current seismic standards required by law in this area.

Sincerely,

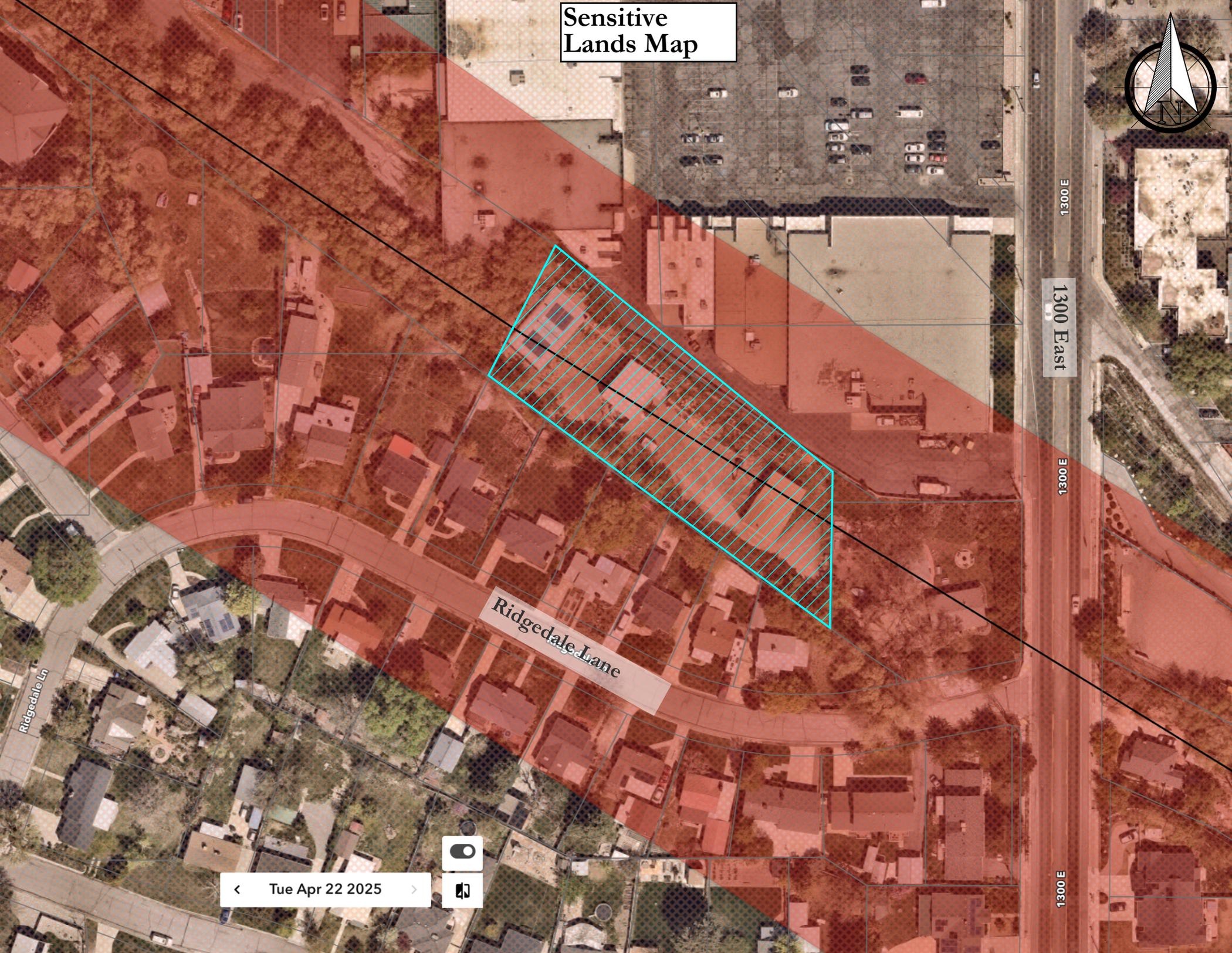
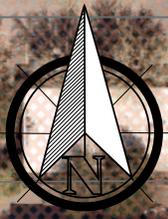
WJ (Bill) Whitney, PE



Appendix 4: Photos of Exterior of Home



Sensitive Lands Map



1300 E

1300 East

1300 E

1300 E

Ridgedale Lane

Ridgedale Ln

< Tue Apr 22 2025 >

