

DECISION  
Pleasant Grove Land Use Appeals Hearing Officer  
Appeal of Code Interpretation – Land Disturbance  
Nathan and Kelsey Densley – Approx. 543 N 1380 West  
April 22, 2024

This matter involves an appeal from a stop work order and decision that a land disturbance permit is required for property located at approximately 543 N 1380 West.

RECORD

The record includes the nine-page staff report, a seven-page summary of stipulated future work required for the subject property; an audio recording of a hearing held on Wednesday, March 13, 2024, at 86 South 100 East in Pleasant Grove; minutes of the hearing; and a series of email exchanges initiated February 13, 2024 and ended on April 22, 2024 with the transmission of this decision to the parties.

Present and participating at the hearing were Nathan Densley and Kelsey Densley, property owners and Appellants; Mark Shurtleff, counsel for the property owners; Christine Petersen, City Attorney; Daniel Cardenas, Director of Community Development for the City; Neal Winterton, Public Works Director; Aaron Wilson, City Engineer; Jacob Hawkins, City Planner; Levi Lloyd, employee of the property owner Nathan Densley, and Craig Call, Hearing Officer. Others attended but did not participate. Minutes of the hearing were taken by Christina Gregory, Planning and Zoning Assistant from the city staff, who also attended, and are included in the record.

ANALYSIS – FINDINGS OF FACT

1. This matter includes an appeal from an interpretation of the Pleasant Grove Ordinances relating to land disturbances as applied to the Subject Property at approximately 543 N 1380 West by the Pleasant Grove City Staff.
2. At some time in the past, a number of activities have been conducted on the Subject Property which the City staff determined should have only been conducted after obtaining a land disturbance permit from the City.
3. While these activities have occurred, there are no plans by the property owners at this time to conduct additional activities on the Subject Property which would immediately require obtaining a land disturbance permit.
4. There exist at this time certain conditions related to the Subject Property which would not exist if a land disturbance permit had been obtained for these activities and had the provisions of the City's land disturbance ordinance been complied with.
5. The parties to this appeal have met and conferred about potential remedies for existing conditions. As a result of these discussions, the parties have proposed a course of action to resolve the existing conditions which is attached hereto as Exhibit A, including seven pages.
6. Exhibit A includes a cover sheet market "Exhibit A" which includes an aerial photograph of the Subject Property and identifies several characteristics of the Subject Property. The remaining six pages of Exhibit A include a memorandum prepared March 27, 2024 by the City Engineer and later supplemented with comments by the Appellants/Property Owners related to conditions and

actions recommended by the City Engineer. These comments identify actions that the Appellants/Property Owners have agreed to complete. They also identify the City's application of the terms of the land disturbance ordinances to the Subject Property.

#### ANALYSIS – CONCLUSIONS OF LAW

1. Appellant's property is subject to the land disturbance permit ordinance.
2. In light of the parties' stipulation to the proposed course of action outlined in Exhibit A, the legal issues related to this appeal have been resolved.
3. The proposed course of action provided for in Exhibit A is consistent with the intent and purpose of the City ordinances related to land disturbances.
4. By this decision, the City's application of the land disturbance ordinance to past activities on the Subject Property are determined in final form.
5. By this decision, the commitment of the Appellants/Property Owners and the City to proceed with the agreed upon actions to resolve any issues with the land disturbance ordinances of the City and the Subject Property are deemed binding and final.

#### Conclusion:

The appeal is resolved by stipulation of the parties in a manner consistent with the facts and law. The parties are directed to proceed to address the current and future conditions of the property as related to the City's land disturbance ordinances in the manner provided for in Exhibit A.

Dated this 22nd day of April, 2024.



Pleasant Grove Hearing Officer

**Exhibit A**

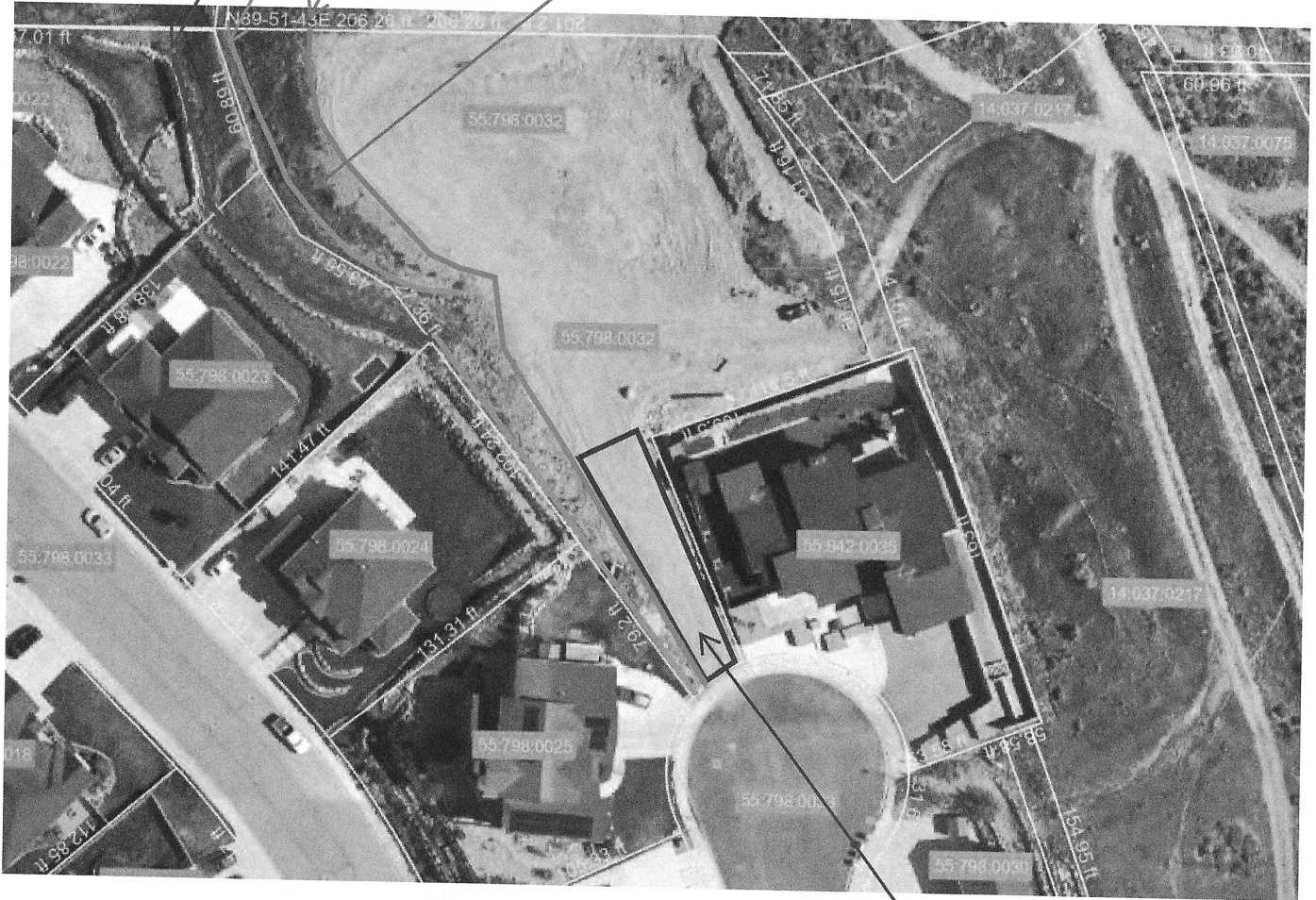
**3 Swales along West Property Line**

**Adjacent Swale (#3):** Existing swale located on Adjacent Property

**Lower Swale (#1):** Existing lower swale along West boundary to remain and be maintained

**Upper Swale (#2):** Existing Upper swale along West boundary to remain and be maintained

**Vegetation:** vegetation along west property line exists and will remain.



**Track-Out Pad:** Gravel to be added to this area.

# City Conditions of No Land Disturbance Permit

Wednesday, March 27, 2024

To: Craig Call, Appeal Authority

From: Aaron Wilson, P.E., City Engineer *(Aw)*

Cc: File

## Subject: Appeal of Land Disturbance Permit at approximately 543 North 1380 East

The purpose of this Memo is to document the requirements of Pleasant Grove City on the Densley property located at 543 North 1380 East to avoid the need for Mr. Densley to formally acquire a land disturbance permit for the work done on the subject property.

Conditions of not being required to submit and receive a land disturbance permit.

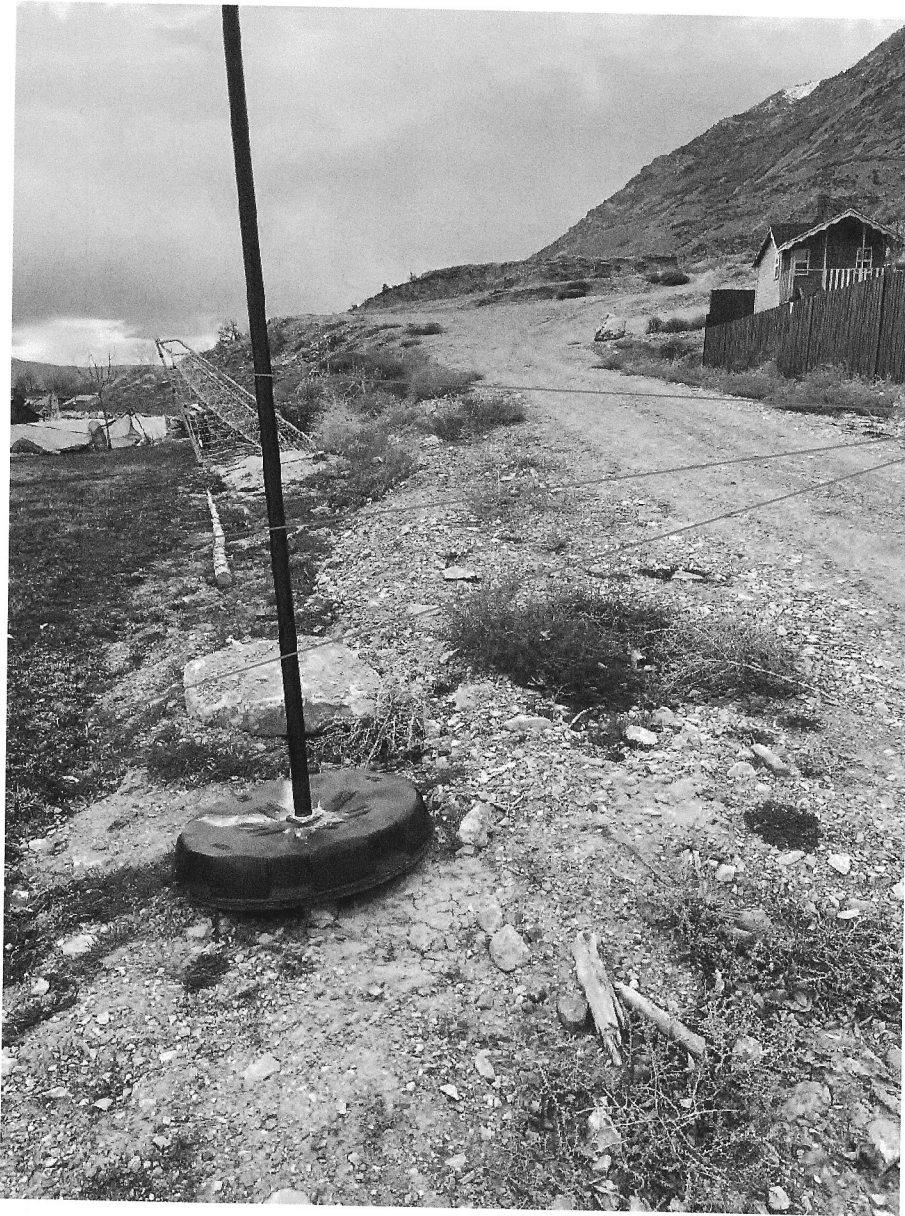
1. Establish a swale (or propose a similar BMP) along the West property boundary particularly from the City right-of-way up the flag stem of the access to the lot. There appears to be an existing swale on or along the West property boundary once you get past the stem but nothing is there on the stem.



1. Yes we will maintain the existing swales along the west property line. The lower swale (#1) was created by the Smith and Walker families several decades ago. The upper swale (#2) was created by the Densley's early spring 2023 as an added precaution when everyone was concerned about spring runoff from record snowfall. This ended up not being an issue and there has never been water runoff issues nor damage to adjacent properties. There is also a 3rd swale located on an adjacent property. (See Exhibit A)

Note: The lower swale (#1) begins at the sidewalk or "City Right of Way" and "up the flag stem of the access to the lot" and along the West property line. See Exhibit A

Note: The upper swale (#2) begins at the or "City Right of Way" and "up the flag stem of the access to the lot" and along the West property line. See Exhibit A



Existing vegetation  
along west  
property line. (See  
exhibit A)



Note: this shows the end of the lower swale (#1). The lower swale (#1) continues below along the West property line to the sidewalk. See Exhibit A

2. Confirm that existing water from the swale will not discharge on the neighboring properties. During the site inspection I noticed a pipe from the existing swale to one of the properties to the West. This needs to be removed to prevent water from discharging onto the neighboring property.

22a. Yes this is confirmed. There has never been water runoff issues nor damage and zero issues during 2023 Spring runoff following record snowfall. The same spring when a landslide in Draper destroyed several homes.

22b. This pipe has been existing for several decades and was installed by the Smith family in coordination with the Walker Family to discharge and distribute excess water from the Lower Swale (#1) to another swale located on an adjacent property for irrigation and water runoff. We are happy to remove the pipe however it does serve a purpose and was existing prior to purchasing this land. We will discuss with the adjacent owner.



Note: This shows lower swale (#1) and pipe to distribute excess water to a 3rd swale located on adjacent property. This has been existing for several decades and in place prior to Densley's purchasing property. We will discuss with adjacent property owner.



Note: in the rare event water levels in the Densley's lower swale (#1) were to get high enough the excess water will enter the pipe and be diverted to a 3rd swale located on an adjacent property. We will discuss the pipe with the adjacent owner.

3. Construct a track out pad at the site entrance to the roadway, adequate to keep tracking of mud from the lot to the roadway. If what is installed is not effective at keeping mud and debris from being tracked onto the roadway, it may need to be changed or expanded to prevent the debris from being tracked. We would also encourage you to install a gate, chain, or some other mechanism to keep the general public from tracking mud from the property.
  4. Re-seed the western boundary, particularly on the flag stem or propose an alternate maintenance plan until the natural plants are established.
  5. Submit an aerial image with the BMP's showing where they will be installed and include a timeframe of when they will be installed.
3. Yes we will add gravel track out pad and we will consider closing access to the neighbors using a gate and or no trespass signage.
  4. Yes we will maintain proper vegetation along the West property line.
  5. Yes. See Exhibit A



. Also, according to communication with Ammon Allen at the Metropolitan Water District of Salt Lake and Sandy, the work that needs to be completed to satisfy the district has not been completed. According to Ammon, the work has been committed to be completed in the spring of 2024. Ammon said they agreed that Mr. Densley or his representative is supposed to pull back material placed on the District property and re-establish the existing grades along the property line with the Metropolitan Water District of Salt Lake and Sandy. Ammon also said that once the regrading is complete, the District will then put up a permanent fence on their boundary. If the BMP's in items one through five above are implemented, the City will not require a land disturbance permit for the work that still needs to be completed.

6. Yes we offered to pull back sage brush and top soil that appears to have crossed into their property near our northeast property line. We will continue to work with the Metropolitan Water District of Salt Lake and Sandy.

. Based on Mr. Densley's communication at the hearing, no additional work is planned on the property. If in the future any further work is done on the property that qualifies for a land disturbance permit under Pleasant Grove City code, a land disturbance permit will be required. If there are any questions about whether future planned work may require a permit, please contact the City Engineer for clarification.

The proposed plan is acceptable. It is important to note that regardless of any acceptance of these BMP's by the City, it is the property owners responsibility to maintain any and all water, mud, and debris from leaving their property. For instance, if the existing swales do not contain the water, as expected, modifications may be necessary and any cleanup as a result is the responsibility of the Densly's. Also, If the pipe connecting swales #1 and #3 remains as is, we recommend that an drainage easement be recorded on the neighboring property to establish this potential drainage channel as an easement.