



# Staff Report for Administrative Approval – Access Exception for a Private Right-of-Way

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on a request to use a private right-of-way (ROW) as the primary access for lot 2 of what will be the Amended Doyle Hess Subdivision that does not have frontage on a street.

**Agenda Date:** Wednesday, January 21, 2015

**Applicant:** Doyle Hess

**File Number:** Access Exception (AE 2014-05)

### Property Information

**Approximate Address:** 2550 South 4544 West (Approximate)

**Project Area:** 35 Acres

**Zoning:** Agricultural Zone (A-1)

**Existing Land Use:** Agriculture

**Proposed Land Use:** Residential Lot

**Parcel ID:** 150790086

**Township, Range, Section:** T6N, R2W, Sections 29

### Adjacent Land Use

<b>North:</b> Agriculture	<b>South:</b> Agriculture/Residential
<b>East:</b> Agriculture	<b>West:</b> Agriculture

### Staff Information

**Report Presenter:** Jim Gentry  
jgentry@co.weber.ut.us  
801-399-8767

**Report Reviewer:** SW

## Applicable Land Use Codes

- Weber County Land Use Code Title 104 (Zones) Chapter 5 (Agricultural A-1 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations)

## Background

The applicant is requesting administrative approval to use a right-of-way (ROW) as the primary access for Lot 2 of an Amended Doyle Hess Subdivision. The property is located in the Agricultural A-1 Zone at approximately 4544 West 2550 South. The lot has 2.88 acres and will split with lot 1 having 40,000 square feet and 160 feet of frontage. The new lot will be accessed by a 20 foot wide and 270 foot long easement to the rear of the property. The second lot will be approximately 1.96 acres in size. The applicant owns both parcels and will grant himself a row easement to the back lot. This document satisfies the condition for demonstrating legal and appropriate access.

The proposed ROW is required to meet the design, safety, and lot/parcel standards listed in Title 108 Chapter 7 Section 29 of the Weber County Land Use Code. In addition to these standards, the ROW is required to comply with the criteria and conditions listed in Section 31, which is specific to access by a private ROW. These standards are listed below under "Summary of Planning Division Considerations." Approval of the private ROW as the primary access does not act as approval of the subsequent subdivision plat.

## Summary of Planning Division Considerations

108-7-31. Lots/parcels which do not have frontage on a street, but which have access by a private right-of-way or access easement may, under certain circumstances, use a private right-of-way or access easement as the primary access. Approval is subject to the applicant demonstrating compliance with the following criteria and conditions:

1. Criteria

- a. The lot/parcel is a bona-fide agricultural parcel that is actively devoted to an agricultural use that is the main use; or
- b. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support an approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.

## 2. Conditions

- a. It shall be demonstrated that the agricultural parcel or other lot/parcel has appropriate and legal access due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right; and
- b. The landowner of record or authorized representative shall agree to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private right-of-way/easement with a street that would serve as a required access to additional lots. The agreement shall be in the form considered appropriate and acceptable to the office of the Weber County Recorder and shall recite and explain all matters of fact, including a lot/parcel boundary description, which are necessary to make the agreement intelligible and show its successive nature.

Staff has reviewed and analyzed the request for access by a private ROW using the criteria in Section 31. Based on review and analysis of staff's research and the information provided, staff has made the following determinations:

- Property boundary conditions are such that the parcel to be subdivided does not have access from a street and the applicants do not own additional property adjacent to a street that could be used to create a flag lot or build a road. If a road was required, other property owners adjacent to this property would have to agree to participate in its construction on their land. A multiple lot subdivision is located to the north of this property with no road stubs at this location. The property to the east has homes already developed on their frontage along 2550 West.
- Construction of a road to serve this lot from 2500 West is impractical because the property where the road would be located has several existing structures including a dwelling. A road located in this area would be disruptive to the existing dwelling and agricultural operation. Due to these circumstances, construction of a road to serve one lot is impractical.
- The applicant has provided a document, signed by the property owners where the ROW is located, which acknowledges their intent to grant a ROW. This document satisfies the condition for demonstrating legal and appropriate access.
- Prior to receiving final occupancy on the new dwelling, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private ROW with a street that would serve as a required access to additional lots.

### Conditions of Approval

- Prior to final subdivision approval, the applicants must also sign an agreement to pay a proportionate amount of the costs associated with developing a street if, at any time in the future, the County deems it necessary to have the landowner replace the private ROW with a street that would serve as a required access to additional lots.
- Meeting applicable review agency requirements.

### Staff Administrative Approval

Based upon the findings listed above, administrative approval for use of a private right-of-way as the primary access for a lot without street frontage (Lot 2 of Amended Doyle Hess Subdivision) is hereby approved this 21<sup>th</sup> day of January, 2015.

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Sean Wilkinson  
Weber County Planning Director



## Exhibits

- A. Amended Doyle Hess Subdivision Access easement site plan
- B. Preliminary review by the Weber Fire District
- C. Preliminary approval by Taylor West Weber Culinary Water



# Location Map



January 7, 2015

□ Parcels

Street Labels

City Labels



**Basis for Issuance of Access at a location other than across the front lot line**

Access to lots/parcels at a location other than across the front lot line may be approved as the primary access, subject to the following criteria:

The applicant demonstrates that special or unique boundary, topographic, or other physical conditions exist which would cause an undesirable or dangerous condition to be created for property access across the front lot line as follows:

To whom it may concern:

The Dayle H. Hess subdivision is located at 4544 West 2550 South in Taylor. The property is 160 ft wide and is land locked on both sides by neighboring farms. There are also irrigation ditches on both sides with a power pole located on the west ditch bank. At the present time, there is a house setting on the southwest corner 48 ft from the east irrigation ditch of said property.

The only access to the proposed building lot and pasture would be to create an access right of way from 2550 South along the east irrigation ditch.

The right of way would be <sup>20'</sup>16 feet wide and would be able to support any emergency vehicle back to the proposed building lot with a "T" shape turn around for such vehicles.

The right of way would be maintained privately.

Attach proof that appropriate and legal access exists due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right.



S. 89°17'54" E.

Ditch

160.00'

825.00'

3.03 Acres  
Less 0.15 Acre In Street  
2.88 Acres Net

1.98 Act

782.00'

825.00'

N. 00°39'39" E.

250'

10' WIDE UTILITY & DRAINAGE EASEMENT

40,000 sq ft

Address  
4544 WEST

160.00'

782.00'

S. 00°39'39" W.

KEARL

SUBDIVISION

Old Fence Maintaining The East Line Of The SW 1/4 Of The SE 1/4 Of Section 29.

RAZONAL ZONES.  
FINANCE FOR  
UDING THE  
USE SHALL  
ERES WITH  
AMD. ORD.

STREET

S. 89°17'54" E.

POINT OF BEGINNING

Basis Of Bearing

2642.14'

42.99'

43'

160.00'

43'

270'

20'

