



Staff Report for Administrative Approval

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on an access exception for two lots on access easements at approximately 5599 East Highway 39.
Agenda Date: Wednesday, May 06, 2015
Applicant: Zane Froerer, representing Allen Trust
File Number: AE 2015-02

Property Information

Approximate Address: 5599 East Highway 39
Project Area: 13.84 acres
Zoning: Forest Valley FV-3
Existing Land Use: Dwellings
Proposed Land Use: Residential
Parcel ID: 20-015-0013
Township, Range, Section: T6N, R1E, Section 14

Adjacent Land Use

North: Agricultural	South: Agricultural
East: Agricultural	West: Agricultural

Staff Information

Report Presenter: Jim Gentry
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801-399-8767
Report Reviewer: SW

Applicable Ordinances

- Weber County Land Use Code Title 104 (Zones) Chapter 14 Forest Valley (FV-3 Zone).
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations) Sections 23-29. (Flag Lot Access Strip, Private Right-of-Way, and Access Easement Standards) and Section 108-7-31 (Access to a lot/parcel using a private right-of-way or access easement).

Type of Decision

Administrative Decisions: When the Planning Director is acting as the land use authority, he is acting in an administrative capacity and has much less discretion. Examples of administrative applications are design reviews, flag lots, and subdivisions. Administrative applications must be approved by the Planning Director if the application demonstrates compliance with the approval criteria.

Background

The applicant is proposing to have two lots to be accessed other than across their frontage. The frontage along Highway 39 is steep and is at a location where Highway 39 curves. The lots have frontage, but there are no roads, so their access will be on an access easement located at approximately 5599 East Highway 39. The property is zoned Forest Valley FV-3, which requires 3-acres per lot.

Currently, a 30 foot access easement serves three homes. Property owners in this area have looked at developing a road to further subdivide additional property, but steepness of the area has been an issue for a new road. The proposal is to have this access easement serve two additional homes. This access easement is at a safer location than the frontage for this parcel.

Review Criteria

Sec. 108-7-29 Flag lot access strip, private right-of-way, and access easement standards

In order to provide for safe and consistent access to lots/parcels using flag lot access strips, private rights-of-way, or access easements as the primary means of ingress and egress, the following standards shall be met, in addition to the individual requirements of sections 108-7-30—108-7-32:

- (1) Design standards.
 - a. The flag lot access strip, private right-of-way, or access easement shall be designed and built to a standard approved by the County Engineer. The improved road surface does not require hard-surface paving, i.e., concrete or asphalt, but the improvements shall meet the following standards.
 - b. The flag lot access strip shall have a minimum width of 20 feet and a maximum width of 30 feet. A private right-of-way or access easement shall have a minimum width of 16 feet and a maximum width of 50 feet. The private right-of-way and access easement width standards may be modified by the Weber Fire District in conjunction with the County Engineer on a case by case basis.
 - c. The improved travel surface of the flag lot access strip, private right-of-way, or access easement shall be a minimum of 12 feet wide if the access serves fewer than five dwellings, and a minimum of 20 feet wide if the access serves five or more dwellings.
 - d. The improved road surface of the flag lot access strip, private right-of-way, or access easement shall be capable of supporting a minimum weight of 75,000 pounds.
 - e. A turnout measuring at least 10 feet by 40 feet shall be provided adjacent to the traveled surface of the a flag lot access strip, private right-of-way, or access easement (private access) if the private access is greater than 200 feet in length. The turnout shall be located at the approximate midpoint of the private access if its length is between 200 and 800 feet. If the private access length is greater than 800 feet, turnouts shall be provided at least every 400 feet thereafter. These standards may be modified by the Weber Fire District in conjunction with the County Engineer on a case by case basis.
 - f. The flag lot access strip, private right-of-way, or access easement shall have a maximum grade of 10%. This standard may be modified by the Weber Fire District in conjunction with the County Engineer on a case by case basis; however, the maximum grade shall not exceed 15%.
 - g. The flag lot access strip, private right-of-way, or access easement shall have a minimum vertical clearance of 14.5 feet.
 - h. No buildings, structures, or parking areas are allowed within the flag lot access strip, private right-of-way, or access easement.
 - i. New bridges, including decking and culverts shall be capable of supporting a minimum weight of 75,000 pounds. For existing bridges, a current certified engineer statement of load bearing capabilities must be submitted to the County Engineer and the Weber Fire District for review.
 - j. The flag lot access strip, private right-of-way, or access easement shall have a minimum inside travel-way radius of 26 feet, outside travel-way radius of 45 feet, and outside clear zone radius of 50 feet on all curves, particularly switchbacks. The width of the access may need to be increased to accommodate these standards.
 - k. Water and sewer lines located within the flag lot access strip, private right-of-way, or access easement require written notification from the agencies providing such services.
- (2) Safety standards.
 - a. The lot address shall be displayed in a prominently visible location at the street entrance to the flag lot access strip, private right-of-way, or access easement.
 - b. A turn-around area shall be provided at the home location to allow firefighting equipment to turn around. This area shall be a year round surface capable of supporting fire equipment (a minimum inside turning radius of 30 feet and an outside turning radius of not less than 45 feet.)
 - c. A fire hydrant or other suppression method may be required by the Fire District.
 - d. A site plan showing the location of the home, any proposed access roads and driveways, along with the location of and distance to the nearest fire hydrant (if available) shall be submitted to the Fire District for review.
 - e. Conditions may be imposed by the Land Use Authority to ensure safety, accessibility, privacy, etc. to maintain or improve the general welfare of the immediate area.
- (3) Lot/parcel standards
 - a. The lot/parcel shall meet all minimum yard and area requirements of the zone in which it is located.
 - b. Buildings shall be set back a minimum of 30 feet from the end of the flag lot access strip, private right-of-way, or access easement.
 - c. The lot/parcel shall meet the minimum lot width requirement for the zone in which the lot is located at the end of the access strip.

- d. The lot/parcel shall have a flag lot access strip, private right-of-way, or access easement constructed in conformance with 108-7-29 (1), (2), and (3) prior to the issuance of Land Use Permits or Building Permits.
- (4) Expiration
- a. Flag lot access strips, private rights-of-way, and access easements which have been approved by the Land Use Authority are valid for 18 months from the date of approval.

Sec. 108-7-31. Access to a lot/parcel using a private right-of-way or access easement

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. The lot/parcel is a bona fide agricultural parcel that is actively devoted to an agricultural use that is the main use and is the subject parcel of an approved agri-tourism operation; or
- c. 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.

Sec. 108-7-32. Access to a lot/parcel 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:

- (1) 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.
- (2) It shall be demonstrated 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.

Summary of Considerations

Does the proposal meet the requirements of the Land Use Code?
At what point should this right of way become a road?

Staff Findings: As part of the application review and agency review process, staff has determined that the following requirements of the Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations) Sections 29. (Flag Lot Access Strip, Private Right-of-Way, and Access Easement Standards), Section 108-7-31 Access to a lot/parcel using a private right-of-way or access easement) and Section 108-7-32 Access to a lot/parcel at a location other than across the front lot line have been complied with as follows:

- Topographical issues prevent the lots from being accessed from their frontage.
- The curve in Highway 39 at their frontage location also adds a safety issue.
- Access to the lots is from an access easement, in which half of the easement is located on their property.

Conformance to the General Plan

Access Easements are not included as part of General Plans

Conditions of Approval

- Requirements of the Weber County Engineering Division
- Requirements of the Weber Fire District
- Completing and recording the subdivision
- Meeting the design criteria listed above

Administrative Approval

Administrative approval of the access to a lot/parcel at a location other than across the front lot line and access to a lot/parcel using a private right-of-way or access easement for two lots is hereby approved based upon its compliance with the Weber County Land Use Code. As part of the Administrative Approval, a condition was placed on the property owner that if the right-of-way is damaged during construction of the homes, the property owner is responsible for the repairs.

Flag lot access strips, private rights-of-way, and access easements which have been approved by the Land Use Authority are valid for 18 months from the date of approval.

Date of Administrative Approval: May 6, 2015



Sean Wilkinson
Weber County Planning Director

Exhibits

1. Applicant narrative
2. Location map
3. Access Easement map
4. Pictures