

# Exhibit C



## Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Consideration and action on a request for a special exception to allow a dwelling to be built on a lot without frontage using access by a private right-of-way.

**Agenda Date:** Thursday, January 27, 2011

**Applicant:** Christina Williams

**File Number:** BOA 2010-08

#### Property Information

**Approximate Address:** N/A

**Project Area:** 10 Acres

**Zoning:** Forest Zone (F-5)

**Existing Land Use:** Agriculture

**Proposed Land Use:** Residential Summer Cabin Lot

**Parcel ID:** 21-043-0005

**Township, Range, Section:** T6N, R2E, Section 34

#### Adjacent Land Use

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

#### Staff Information

**Report Presenter:** Sean Wilkinson  
swilkinson@co.weber.ut.us  
801-399-8765

**Report Reviewer:** JG

### Applicable Ordinances

- Weber County Zoning Ordinance Chapter 8 (F-5 Zone)
- Weber County Zoning Ordinance Chapter 29 (Board of Adjustment)

### Background

The applicant is requesting a special exception to build a summer cabin on a lot without frontage using access by a private right-of-way. The lot is located near the monastery in Ogden Valley, south and east from the end of 1800 South Street. The proposed right-of-way is an existing dirt road that travels approximately 2.4 miles through four separately owned parcels before reaching the applicant's property. The legal description for the applicant's property states that the property has an "unrestricted, dedicated 60-foot easement for ingress and egress, access on the existing road leading from County Road 1800 S. to subject property. Seller reserves the right at his sole discretion to move the access easement to a different location so long as it provides reasonably similar access to buyer's parcel, or for the purpose of accommodating an improved road." The proposed right-of-way currently provides access to at least one dwelling and several agricultural structures on an adjacent parcel. The approximate location of the proposed right-of-way is shown in Map 1.

Although the applicant's legal description describes an access easement, there is nothing on the ownership plat or in the abstract of title that shows a right-of-way actually existing. The applicant has not provided staff with adequate information to determine whether or not she has the right to travel on the dirt road through the parcels owned by the Monastery and Bally Watts LLC. If this special exception is approved, the Weber County Planning Division in no way guarantees that the right to use the road through these properties exists. Staff recommends that the applicant work with these property owners to obtain documents that clearly establish the right-of-way.

If this special exception for access by a private right-of-way is granted by the Board of Adjustment, the applicant will still be required to go through the subdivision process in order to make the parcel a legal building lot. Subdivision approval is required prior to the issuance of a land use or building permit for a single family dwelling. Approval of the proposed right-of-way by the Board of Adjustment does not guarantee approval of a future subdivision application.



## Summary of Planning Commission Considerations

Chapter 29 Section 3.10a of the Weber County Zoning Ordinance requires the following criteria to be met in order for access by a private right-of-way to be granted as a special exception:

- The lot does not have frontage on a street, but has access by a private right-of-way
- The Board of Adjustment considers it unfeasible or impractical to extend a street to provide access to the lot because of unusual topographic or property boundary conditions
- Before approval by the Board of Adjustment to build on any private right-of-way, the land owner of record shall place a covenant to run with the land agreeing to participate in the cost of developing any future road required by the county to replace the private right-of-way as required access to additional lots

Staff has reviewed and analyzed the request for access by a private right-of-way using the criteria in Chapter 29 Section 3.10a. Based on review and analysis of the information provided, staff has made the following determinations:

- The lot does not have frontage on a street and the dirt road already exists, but it is not clear if the applicant actually has a right-of-way across three of the parcels where the existing road is located. The Weber County Planning Division in no way guarantees that the right to use the road through these properties exists. Staff recommends that the applicant work with the adjacent property owners to obtain documents that clearly establish the right-of-way.
- There are topographic and property boundary conditions that make construction of a private road for one summer cabin impractical. The right-of-way must cross three other properties in order to reach the applicant's property, and these property owners would have to agree on any road improvements. Although it would be possible to improve the road to County standards, there are also physical barriers that would make it impractical. In order to reach the applicant's property the road crosses a few different streams multiple times. Each of these crossings may require bridges, culverts, etc. which would greatly increase the improvement costs. There may also be issues with the Ogden Valley Sensitive Lands Ordinance which requires roads to be located 50 to 75 feet from certain stream corridors.

If a large subdivision were to take place or if several existing dwellings already used the right-of-way, then it may not be impractical to require full road improvements. However, it is impractical and premature to require full road improvements for this request.

- The applicant is required to sign the covenant in order for an approval by the Board of Adjustment to be valid.

## Conditions of Approval

- Before approval by the Board of Adjustment to build on any private right-of-way, the land owner of record shall place a covenant to run with the land agreeing to participate in the cost of developing any future road required by the county to replace the private right-of-way as required access to additional lots.

## Staff Recommendation

Staff recommends approval of this special exception request for access by a private right-of-way. This recommendation includes a request that the applicant work with the adjacent property owners to obtain documents that clearly establish the right-of-way. The criteria for approval have been met as noted above, but again, the Planning Division does not guarantee that the applicant has access on the proposed right-of-way.

## Exhibits

- A. Applicant's request
- B. Map of property owners affected by the proposed right-of-way



Map 1





# Exhibit A

## Applicant Narrative

Please explain your request.

I have a 10 acre parcel without frontage, but a right-of-way. I would like to build a summer cabin. There is a dedicated 60-foot easement for ingress + egress approx 1.6 miles long that comes out the end of 1800 South. At the end of 1800 South used to be a county road that goes right to the property. A cabin owned by Ross Allen uses the same easement.

## Variance Request

Explain how the variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.



# Exhibit B

