



Staff Report to the Western Weber Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request:	Consideration and action on an alternative access request to use a private right-of-way as the primary access and frontage for a three lot subdivision.
Agenda Date:	Tuesday, December 13, 2016
Applicant:	Somerset Lands, LLC
Authorized Representative:	Sharon Clark
File Number:	AE 2016-09

Property Information

Approximate Address:	6260 South 2125 East (Jared Circle)
Project Area:	3.28 Acres
Zoning:	Residential Estates Zone (RE-15)
Existing Land Use:	Vacant
Proposed Land Use:	Residential
Parcel ID:	07-665-0001
Township, Range, Section:	T5N, R1W, Sections 23

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Residential

Staff Information

Report Presenter:	Ronda Kippen rkippen@co.weber.ut.us 801-399-8768
Report Reviewer:	RG

Applicable Land Use Codes

- Weber County Land Use Code Title 104 (Zones) Chapter 3 (Residential Estates RE-15 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations) Section 29 Flag lot access strip, private right-of-way, and access easement standards
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations) Section 31 Access to a lot/parcel using a private right-of-way or access easement

Development History

- BOA 2003-01: Access other than frontage from Hwy 89-Approved (one lot)
- BOA 2004-09: Private access without frontage for two lots-Approved (two lots)
- LVH010616: Hidden Oak Cove Subdivision-Approved (one lot)
- AE 2016-01: Private access without frontage for six lots-Approved (one lot)

Background

The Planning Division is recommending approval of the request for an alternative access for a future three lot subdivision. The proposal is to use a 29 foot private right-of-way as the primary access for the future three lot subdivision. The future subdivision would further divide the existing Lot 1R in the Hidden Oak Cove Subdivision that was approved and recorded in June 2005. The property is in the Residential Estates RE-15 Zone located at approximately 6260 South 2125 East (Jared Circle) and is 3.28 acres. The access stub is located between the existing Lots 26 and 27 in the Highlands Bluff Phase 3 Subdivision. The applicant has provided a narrative (see Exhibit A) and conceptual layout of the project (see Exhibit B) of the proposed project.

The existing Lot 1R in the Hidden Oak Cove Subdivision is an approved flag lot that is accessed from Jared Way (see Exhibit C). The subdivision access was approved based on a variance that was granted by the Board of Adjustments (BOA) in 2004 (BOA 2004-09) for a private right-of-way access. The BOA approval was for a two lot subdivision and was based on the

unique boundary conditions of the property which is surrounded by development and an existing state highway with the only access to and from the property being a 29 foot private right of way between two existing lots.

The property abuts Highway 89 to the South and the applicant has been unsuccessful in receiving an access permit to the property from the Utah Department of Transportation (UDOT) due to traffic safety concerns. The 2004 variance approval was conditioned upon the 29 foot private right-of-way meeting the design standards at the time of subdivision.

Alternative access applications such as this are reviewed and approved administratively by the Weber County Planning Director. However, since this request was previously heard by the Western Weber Planning Commission for consideration of up to six lots, the Planning Director has deferred the decision for the most recent request to the Western Weber Planning Commission for reconsideration based on a substantial change being made to the proposal. It is essential to note that this request is an administrative application and is not a variance or an exception to the standards and criteria outlined in the Uniform Land Use Code of Weber County (LUC). The request conceptually meets the standards as outline in LUC §108-7-29 and meets the criteria for the request as required in LUC §108-7-31. Alternative access applications have specific standards and criteria that must be met at the time of subdivision.

Alternative access applications should be approved as long as the design standards can be implemented during the subdivision process. The application meets the criteria in LUC §108-7-31(1)(b) which states:

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.

Analysis

The application has been forwarded to the applicable review agencies and based on the limited criteria and conditions that govern alternative access application and after a thorough review of the applicant's proposal, staff feels that the applicant has provided adequate evidence to show that it is unfeasible or impractical to extend a street to serve such lot/parcel due to topographic, or property boundary conditions. This determination is based on the review and analysis of the information provided by the applicant.

Prior to any further development considerations on this site, the applicant will have to provide a complete application that adheres to all Federal, State and County ordinances. If the alternative access request for three lots is approved, the applicant will be required to provide Weber County with the following documents and reports:

- Geologic Report
- Geotechnical Report
- Engineered subdivision plans
- Engineered improvement drawings for the infrastructure including the private right of way

The subdivision review process will include the County Engineer, the County Surveyor, the Weber County Fire District and the Weber County Planning Division. It is essential to note that at any time, the County Engineer has the right to request a third party review of all geotechnical and geologic reports provided to the County for review and acceptance.

Summary of Planning Commission Considerations

- Based on substantial evidence, has it been 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

Staff Recommendation

Staff recommends approval of the request for an alternative access for a 29 foot private right-of-way as the primary access for the future three lot subdivision. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. 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.

This recommendation is based on the following findings:

1. Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel based on topographic, and property boundary conditions which limits typical access requirements in a unique way
2. Access from Highway 89 was denied by UDOT.

Exhibits

- A. Application with narrative
- B. Proposed site plans
- C. Hidden Oak Cove Subdivision plat

Location map



Exhibit A-Application & Narrative

Weber County Alternative Access Application			
Application submittals will be accepted by appointment only. (801) 399-8791, 2380 Washington Blvd. Suite 240, Ogden, UT 84401			
Date Submitted / Completed 11/3/16	Application Fee: \$225.00	Receipt Number (Office Use)	File Number (Office Use)
Application Type			
<input type="checkbox"/> Flag lot access strip <input type="checkbox"/> Access by Private Right of Way <input checked="" type="checkbox"/> Access at a location other than across the front lot line			
Property Owner Contact Information			
Name of Property Owner(s) Somerset Lands, LLC		Mailing Address of Property Owner(s) P.O. Box 65999 SLC, UT 84165	
Phone 385-242-4277	Fax		
Email Address (required) bluemohomes@gmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Authorized Representative Contact Information			
Name of Person Authorized to Represent the Property Owner(s) Sharon Clark		Mailing Address of Authorized Person 2508 Lambourne Ave. Salt Lake City, UT 84109	
Phone 801-580-8931	Fax		
Email Address (required) bluemohomes@gmail.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Property Information			
Project Name Hidden Oak Cove	Total Acreage 3.38 acres	Current Zoning RE-15	
Approximate Address 6260 S. 2125 E., So. Ogden, UT 84403	Land Serial Number(s) 84403	Tax Serial No. 07-665-0001	
Proposed Use Residential			
Project Narrative No current project. Seeking to obtain entitlements to build future construction of a couple of homes or 3 homes.			

Lot is bounded on all sides.

UDOT denied access from Hwy. 89

There is an approved 2-lot Subdivision the
was approved in 2005.

Basis for Issuance of Flag lot access strip

The land use authority shall determine whether or not it is feasible or desirable to extend a street to serve a parcel(s) or lot(s) at the current time, rather than approving a flag lot.

Sec. 108-7-30. - Flag lots

- (a) Criteria to be used in determining feasibility or desirability of extending a street shall include, but not be limited to topography, boundaries, and whether or not extending a road would open an area of five acres or more in Western Weber County and ten acres or more in the Ogden Valley for development.
- (b) The lot area exclusive of the access strip shall be a minimum of three acres.
- (c) Each lot shall access a street by means of its own fee title access strip. Successive stacking of lots on the same access strip is not permitted.
- (d) No access strip shall exceed 800 feet in length.
- (e) A maximum of two flag lot access strips may be located adjacent to each other.
- (f) No flag lot shall be allowed which proposes to re-subdivide or include within it (including the access strip) any portion of an existing lot in a recorded subdivision. No subdivision shall be vacated, re-subdivided, or changed in order to meet the requirements of this section.

Please provide information to support your request for a flag lot access strip outlining how the request meets the criteria listed above.

Basis for Issuance of Access by Private Right of Way

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:

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

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.

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.

Please provide the following information to support your request for access to a lot/parcel using a private right-of-way or access easement:

- ☐ Attach proof to this application 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.
- ☐ The landowner of record or authorized representative agrees 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.

Exhibit A-Application & Narrative

Basis for Issuance of 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:

Sec. 108-7-32. - Access to a lot/parcel at a location other than across the front lot line.

- (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.

Please provide the following information to support your request for Access to a lot/parcel at a location other than across the front lot line:

- ☒ 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.
- ☒ The landowner of record or authorized representative agrees 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.

Property Owner Affidavit

I (We), Sharon Clark, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge. I (We) understand that an approval of an alternative access application does not grant a legal right to access property that I(we) currently do not own.

Sharon Clark Property Owner _____ Property Owner

Subscribed and sworn to me this 3rd day of November, 2016

Kary C. Serrano Notary



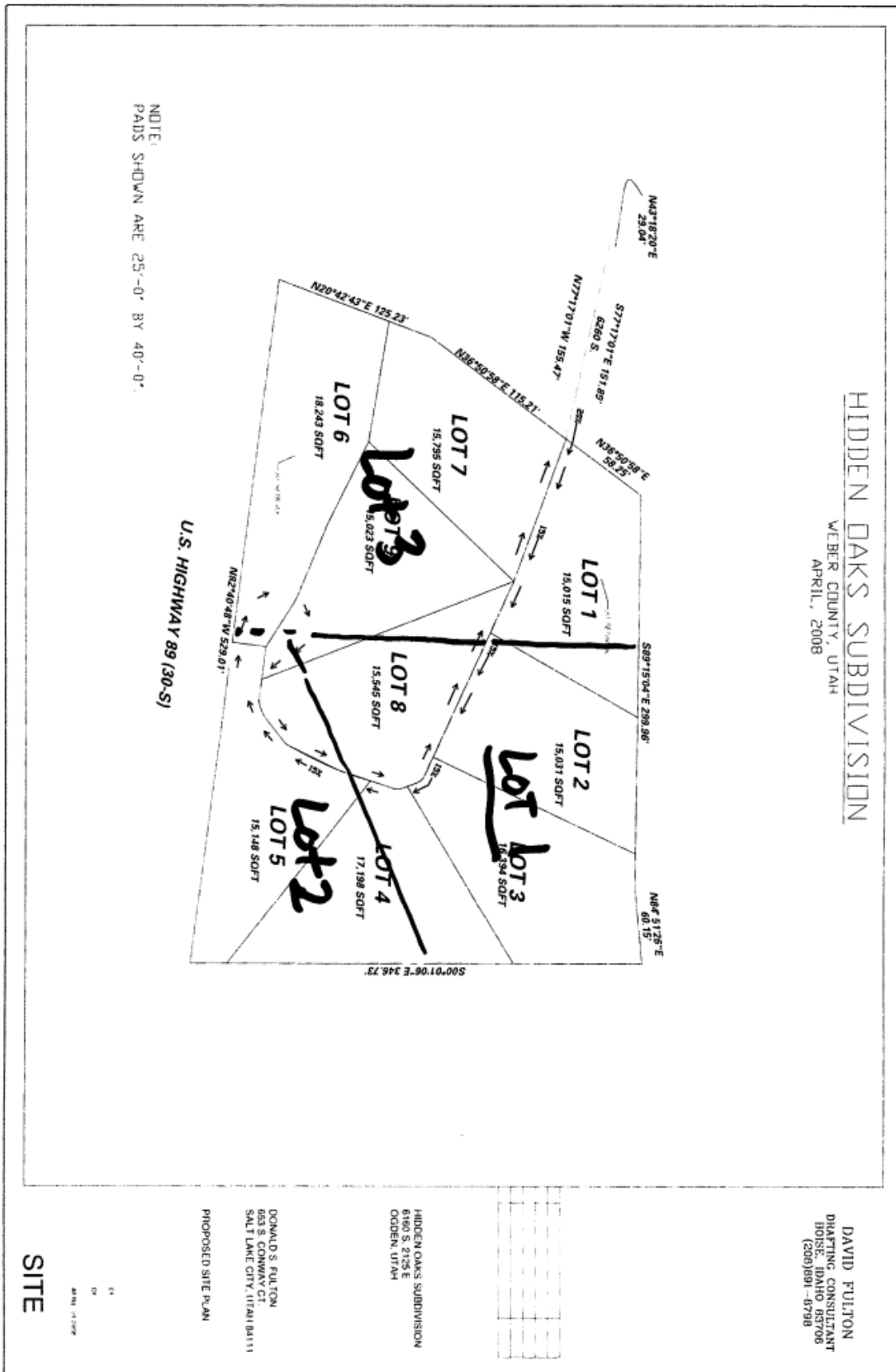
Authorized Representative Affidavit

I (We), _____, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), _____, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

_____ Property Owner _____ Property Owner

Dated this _____ day of _____, 20____, personally appeared before me _____, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

_____ Notary



ON OF SECTION 23
WEBER COUNTY, U
JUNE, 2005

-WEST QUARTER CORNER OF SECTION 21,
T.54N., R.14W., S.18E.44, U.S. SURVEY,
FOUND WEBER COUNTY MONUMENT 5"
BRASS CAP FLUSH WITH GROUND (1963)

[illegible][illegible]

THE BASES OF BEARINGS FOR THIS PLAT IS THE UTM COORDINATE SYSTEM DETERMINED LOCALLY BY THE RESURVEYED RECORDS ALONG THE SECTION LINE BETWEEN THE SOUTHWEST CORNER AND THE WEST QUARTER CORNER OF SECTION 21, 15N., 81E., S.L.B.M., U.S. SURVEY, SHOWN HEREON AS 460377117M.

[illegible]

Mark R. Campbell
MARK R. CAMPBELL

STATE OF NEW YORK)
COUNTY OF _____) ss:

ON THE 23 DAY OF JUNE 1963, PERSONALLY APPEARED before me, the undersigned notary public, _____ (Name of the person(s) of the above owner's declaration and certification in his said report, did acknowledge to me _____ (Name of the persons therein mentioned) freely, voluntarily, and for the purposes therein mentioned.

11-24-2007 *[Signature]*
 COMMISSIONER DEPT. OF REVENUE
 NOTARY PUBLIC

STATE OF _____, ss.
COUNTY OF _____,

	COMMISSION EARNINGS	NOTARY FEE
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REEVE & ASSOCIATES, INC.
*One Engineering • Structural Engineering
 Surveying • Land Planning • Landscape Architecture*
 EXECUTIVE SUITE, 4125 S. WASHINGTON BLVD., #110
 OREM, UTAH 84403
 (801) 621-5100 FAX (801) 621-9844

COUNTY NO. 211259471 PLOT NO. 28.1
 FILED FOR RECORD AND RECORD
 28.1 JUL. 2005 AT 4:14

STATE THAT THE SOIL, PERCOLATION
SITE CONDITIONS FOR THIS SUBMISSION
WARRANTED BY THIS OFFICE AND ARE
ON-SITE WASTEWATER DISPOSAL

RECORDS, PAGE 318
RECORDED FOR
MARK B. CROOKSTON
DATE 6/2/06

66-96

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