



Staff Report for Administrative Approval

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 for two parcels considered to be legal Lots of Record.

Agenda Date: Wednesday, June 28, 2017

Applicant: Yellowstone Pioneer Enterprises, LLC

Authorized Representative: Eric Householder

File Number: AAE 2017-03

Property Information

Approximate Address: 9161 East 100 South, Huntsville, UT 84317

Project Area: 11.18 Acres

Zoning: Agricultural Valley Zone (AV-3)

Existing Land Use: Vacant

Proposed Land Use: Vacant/Residential

Parcel ID: 21-025-0007, 21-022-0008

Township, Range, Section: T6N, R2E, Section 16NE

Adjacent Land Use

North:	East 100 South/Vacant	South:	Vacant
East:	Residential	West:	Vacant

Staff Information

Report Presenter: Tammy Aydelotte
taydelotte@co.weber.ut.us
 801-399-8794

Report Reviewer: RK

Applicable Land Use Codes

- Weber County Land Use Code Title 104 (Zones) Chapter 6 (Agricultural Valley AV-3 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

Background

Currently, Planning is working on assisting the applicant with documents necessary to record a boundary line adjustment involving three parcels, including the two subject parcels.

The Planning Division is recommending approval of the request for an alternative access for two parcels. The future boundary adjustments would maintain three parcels, however, configured differently, and through an approval process different than subdivision. The subject parcels are being reviewed for approval of the boundary line adjustment by the Land Use Authority per the requirements outlined in the Utah State Code §17-27a-608-(5)(a) which govern boundary line adjustments by metes and bounds descriptions. The proposal is to use a 165 foot private right-of-way as the primary access for two of the three parcels.

The property is in the Agricultural Valley AV-3 Zone located at approximately 9161 East 100 South and is a combined 11.18 acres. The private right-of-way is located along the existing parcel# 21-025-0008, of Section 16 of Township 6 North, Range 2 East. The applicant has provided a narrative (see Exhibit A) of the proposed project.

Alternative access applications such as this are reviewed and approved administratively by the Weber County Planning Director. 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 either subdivision or, in this case, a parcel boundary line adjustment.

Alternative access applications should be approved as long as the design standards can be implemented during the development 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 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 two parcels is approved, the applicant will be required to provide Weber County with the following documents and reports:

- Engineered improvement drawings for the infrastructure including the private right-of-way

The parcel boundary line adjustment review process will include the County Engineer, the County Surveyor, the Weber County Fire District and the Weber County Planning Division.

Summary of Administrative 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 165 foot private right-of-way as the primary access for two parcels of the future three parcel boundary line adjustment. 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 has been found 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.

Exhibits

- A. Map of Location and Current Parcel Arrangement
- B. Application and Narrative
- C. Proposed Revision of Parcel Boundaries and Location of Alternative Access

Exhibit A-Location map and Current Parcel Arrangement

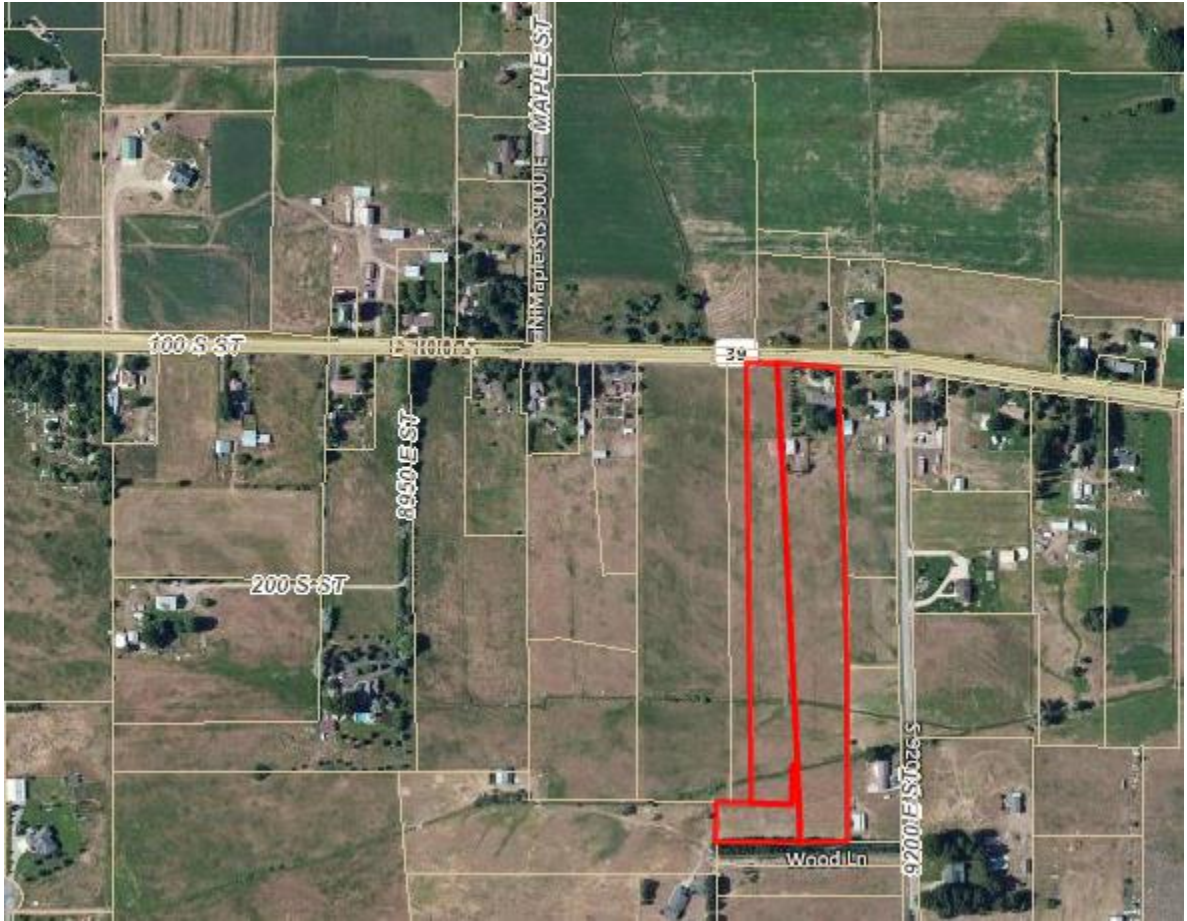


Exhibit B-Application & Narrative

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	Application Fee: \$225.00	Receipt Number (Office Use)	File Number (Office Use)
Application Type			
<input type="checkbox"/> Flag lot access strip <input checked="" type="checkbox"/> Access by Private Right of Way <input type="checkbox"/> Access at a location other than across the front lot line			
Property Owner Contact Information			
Name of Property Owner(s) Yellowstone Pioneer Ent. - Series G		Mailing Address of Property Owner(s) 8149 S MATHOM CIR SANDY UT 84094	
Phone 801.979.7989	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required) SHANE@UM@aol.com			
Authorized Representative Contact Information			
Name of Person Authorized to Represent the Property Owner(s) ERIZ HOUSEHOLDER		Mailing Address of Authorized Person PO Box 412 EDEN UT 84310	
Phone 801.389.0040	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required) ERIZ@THG-CS.COM			
Property Information			
Project Name YELLOWSTONE	Total Acreage 11.18	Current Zoning AV-3	
Approximate Address 9190 EAST 100 SOUTH HUNTSVILLE UT 84317	Land Serial Number(s) 21-022- 21-025-0007 (1.94A), -0008 (9.24)		
Proposed Use RESIDENTIAL			
Project Narrative ADD AN ACCESS TO THE PROPERTIES FROM 9200 EAST.			

Exhibit B-Application & Narrative

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 B-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), Yellowstone Pioneer Ent. LLC, 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.

[Signature] Property Owner N/A Property Owner

Senior VP
Subscribed and sworn to me this 5th day of October, 2016.

Lisa Tucker Notary



Authorized Representative Affidavit

I (We), Yellowstone Pioneer Ent. LLC, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), ERIC HOUSHELDOR, 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.

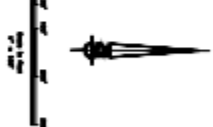
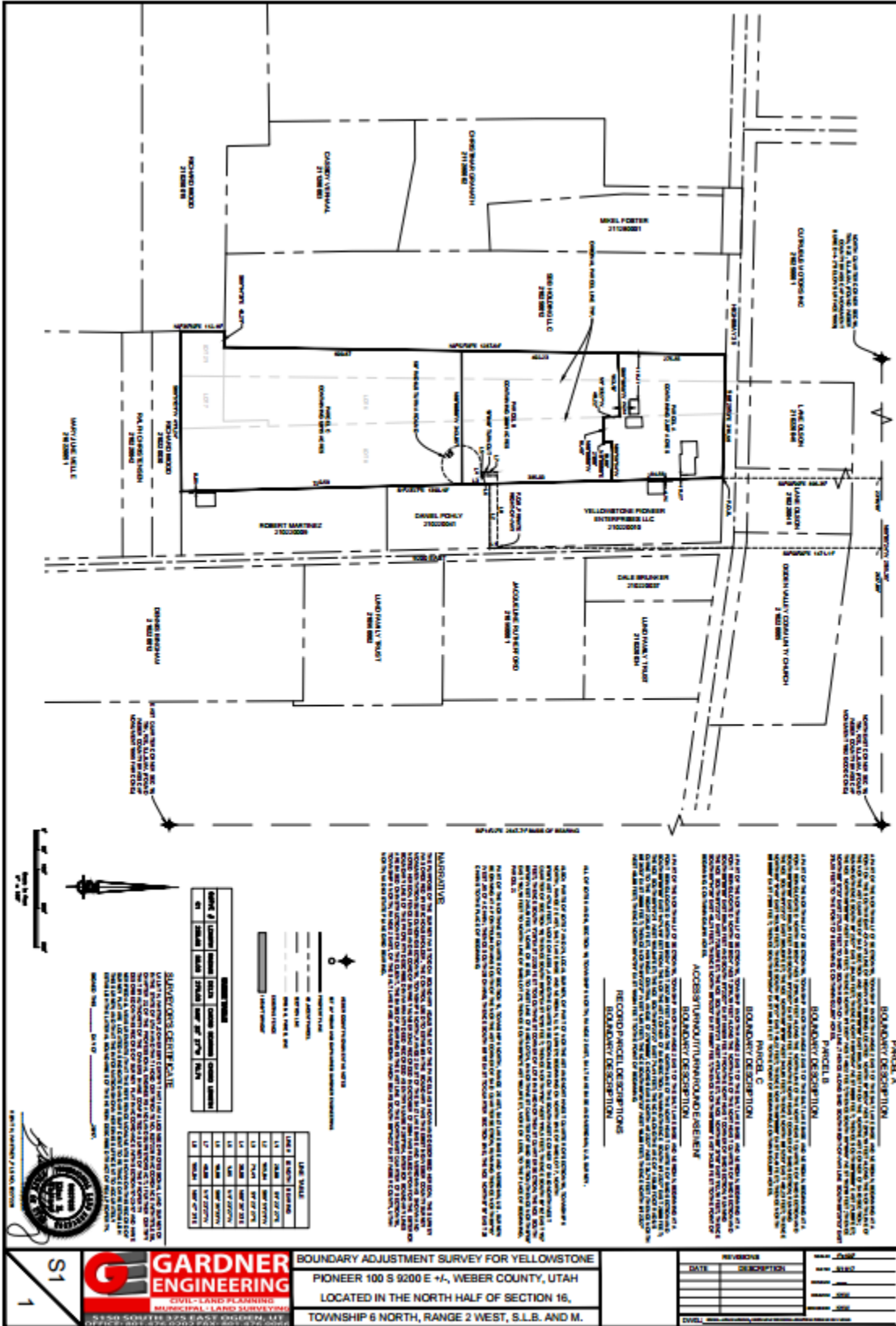
[Signature] Property Owner N/A Property Owner

Senior VP
Dated this 5th day of October, 2016, personally appeared before me Shane Dunleavy, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

Lisa Tucker Notary



Exhibit C-Hidden Oak Cove Subdivision



LINE	START	END	DESCRIPTION
1	0	100	...
2	100	200	...
3	200	300	...
4	300	400	...
5	400	500	...
6	500	600	...
7	600	700	...
8	700	800	...
9	800	900	...
10	900	1000	...

ADJUSTMENTS

ALL OF THE BOUNDARIES AND CORNERS SHOWN ON THIS SURVEY ARE THE RESULT OF THE FIELD MEASUREMENTS AND CALCULATIONS MADE BY THE SURVEYOR. THE SURVEYOR HAS TAKEN CARE TO VERIFY THE ACCURACY OF THE MEASUREMENTS AND CALCULATIONS AND HAS FOUND THEM TO BE CORRECT. THE SURVEYOR HAS ALSO TAKEN CARE TO VERIFY THE ACCURACY OF THE MEASUREMENTS AND CALCULATIONS AND HAS FOUND THEM TO BE CORRECT. THE SURVEYOR HAS ALSO TAKEN CARE TO VERIFY THE ACCURACY OF THE MEASUREMENTS AND CALCULATIONS AND HAS FOUND THEM TO BE CORRECT.

BOUNDARY DESCRIPTION

...

ACCESS/TURNOUT/SPRINKLER EASEMENT

...

RECORD PARCEL DESCRIPTIONS

...

REVISIONS

NO.	DATE	DESCRIPTION
1
2
3
4
5
6
7
8
9
10

GARDNER ENGINEERING
 BOUNDARY ADJUSTMENT SURVEY FOR YELLOWSTONE
 PIONEER 100 S 9200 E +A, WEBER COUNTY, UTAH
 LOCATED IN THE NORTH HALF OF SECTION 16,
 TOWNSHIP 6 NORTH, RANGE 2 WEST, S.L.B. AND M.

DATE: _____
 DRAWN: _____
 CHECKED: _____
 SURVEYOR: _____

1