



## Staff Report for Administrative Approval

Weber County Planning Division

### Synopsis

#### Application Information

<b>Application Request:</b>	Consideration and action on an alternative access request to create a private right-of-way as the primary access for a future 1 lot subdivision.
<b>Agenda Date:</b>	Thursday, May 31, 2018
<b>Applicant:</b>	Allen Franke
<b>File Number:</b>	AAE 2018-02

#### Property Information

<b>Approximate Address:</b>	585 S 3600 W, Ogden
<b>Project Area:</b>	12 acres
<b>Zoning:</b>	Agricultural Zone (A-1)
<b>Existing Land Use:</b>	Agriculture
<b>Proposed Land Use:</b>	Residential/Agriculture
<b>Parcel ID:</b>	15-045-0064
<b>Township, Range, Section:</b>	T6N, R2W, Section 16

#### Adjacent Land Use

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

#### Staff Information

<b>Report Presenter:</b>	Felix Lleverino fllleverino@co.weber.ut.us 801-399-8767
<b>Report Reviewer:</b>	SB

### Applicable Land Use Codes

- Title 104 (Zones) Chapter 5 (Agricultural Zone)
- Title 106 (Subdivisions)
- 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

The applicant is requesting approval to create a private access road to provide access to a future home located on a 12-acre lot. If this application for an alternative access by private right-of-way is approved, the owner will apply for a one lot subdivision. The parcel amounts to 12 acres in area and will remain dominantly open farmland for crop production. The Franke's now have 34.33 feet of frontage of which the Franke's are willing to participate in the dedication of a half width when the property owner to the south is ready to develop. After several meetings with Weber County Staff, it has been determined that at this time it is not feasible or practical to require the owner to dedicate nor construct 66-foot right-of-way because the Franke's do not have enough frontage on 3600 West Street, it is not practical to require full dedication for one single-family dwelling within one residential lot, and the property owner to the south does not wish to participate at this time.

The alternative access option was created as a means for landowners to provide access over, and across areas that restrict the construction of a standard County 66-foot right-of-way. Alternative access applications should be approved as long as the design standards can be implemented during the subdivision process, and the application meets the criteria in LUC §108-7-31(1)(c) 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

This application has been forwarded to the applicable review agencies and after a thorough review of the applicant's proposal, staff feels that a private right-of-way that will provide access to farmland and one single family dwelling is an appropriate usage of the alternative access option. It has also been stated by the applicant that "The Franke's will sign an agreement to provide their portion of (33 feet) of the 66' ROW."

If this proposal is approved, the applicant will be required to ensure that the following design standards are met for the private right of way, as outlined in LUC §108-7-29(1):

### *(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 ten feet by 40 feet shall be provided adjacent to the traveled surface of the 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 ten percent. 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 percent.
- 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 currently 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 subsections (1), (2), and (3) of this section prior to the issuance of land use permits or building permits.

If approved, compliance with the design, safety standards, and lot/parcel standards has been added as a condition of approval to ensure the standards are met.

In addition to demonstrating compliance with the applicable design and safety standards, the applicant will also be required to file an agreement with the County, in which the applicant 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, as outlined in LUC §108-7-31(2)(b).

### **Staff Recommendation**

Staff recommends approval of the application to create a private right-of-way that will provide access to farm ground and a future single-family dwelling based on the following conditions:

1. All County reviewing agency requirements shall be met.
2. The private road shall comply with the design, safety, and parcel/lot standards of the alternative access.
3. The applicant will enter into an alternative access agreement that shall be recorded, including the dedication of a half-width that will be a gift to the County at the time of the County's choosing. The language of the agreement shall be mutually decided between the applicant and County.

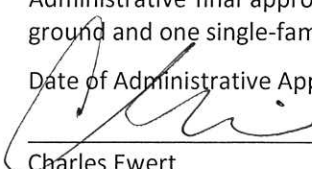
Approval is based on the following findings:

1. At this time, it is not feasible to extend a county right-of-way due to the access strip not having sufficient width.
2. The Franke's are willing to enter into an agreement to provide their portion of the area and are willing to pay the proportionate costs associated with a public right-of-way and gift to the County what would otherwise be required at the time the dedication plat is recorded.
3. The immediate plan to apply for a one lot subdivision with one single family dwelling is minimal and does not justify a standard 66-foot right-of-way.

### **Administrative Approval**

Administrative final approval of Hipwell Alternative Access to create a private road that would serve as an access to farm ground and one single-family dwelling.

Date of Administrative Approval: 5/31/18

  
Charles Ewert  
Principal Planner

### **Exhibits**

- A. Application
- B. Concept Plan
- C. Narrative
- D. Warranty Deed that divides land

## Property Map





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: <b>\$350.00</b>	Receipt Number (Office Use)	File Number (Office Use)
<b>Application Type</b>			
<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			
<b>Property Owner Contact Information</b>			
Name of Property Owner(s) <i>Alan + Cynthia Franke</i>		Mailing Address of Property Owner(s) <i>3392 N. 2575 W. Ogden, Utah 84404</i>	
Phone <i>801-644-9630</i>	Fax		
Email Address (required) <i>frankes5@juno.com</i>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Authorized Representative Contact Information</b>			
Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address (required)		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Property Information</b>			
Project Name <i>HipWell Estates Subdivision</i>		Total Acreage <i>11.96 acres</i>	Current Zoning <i>A-1</i>
Approximate Address <i>555 S. 3600 W.</i>		Land Serial Number(s) <i>15-045-0064</i>	
Proposed Use <i>Agricultural and Residential</i>			
Project Narrative <i>See attachments</i>			

### **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.

### 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.

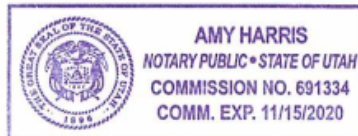
### Property Owner Affidavit

I (We), Alan & Cynthia Franke, 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.

Alan Franke Property Owner Cynthia Franke Property Owner

Subscribed and sworn to me this 30<sup>th</sup> day of April, 2018.

[Signature] Notary



### Authorized Representative Affidavit

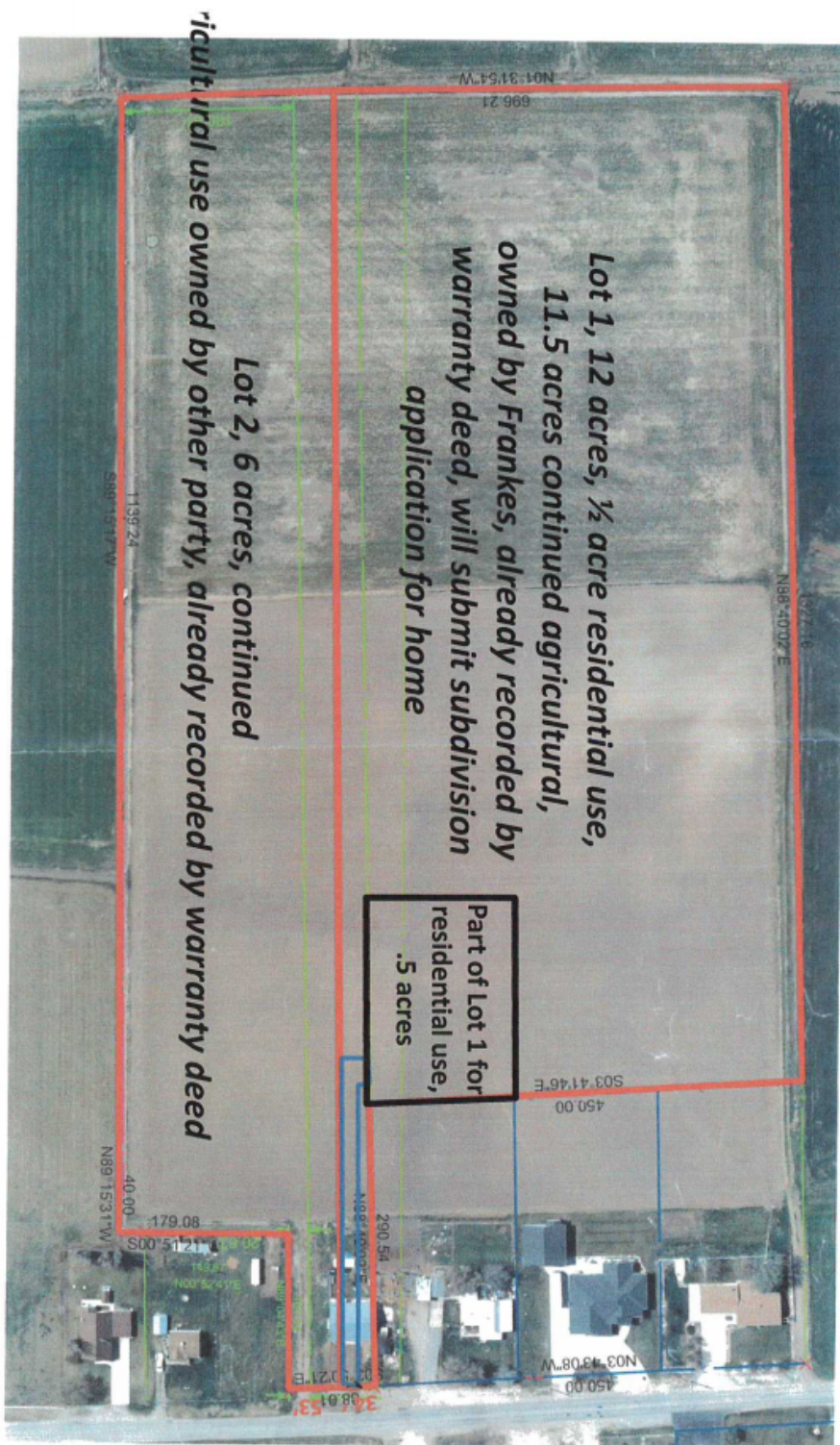
I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering 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





## Hipwell Estates concept plan

Land serial # 15-045-0064



## **Memo**

### ***Amended application, Hipwell Estates Subdivision alternative access***

**Date:** April 30, 2018

**Regarding:** Amended Request for alternative access to proposed one lot subdivision at approximately 555 South 3600 West, Ogden Utah 84401.

**Applicant:** Alan Franke and Cynthia Franke, 3392 North, 2575 West, Ogden, Utah 84404, 801-644-9630, frankes5@juno.com

**To:** Weber County Planning Department, 2380 Washington Boulevard, Suite 240, Ogden Utah, 84401

## **Request**

Mr. and Mrs. Franke would like approval from Weber County for a private driveway access to create a single residential lot on a parcel which is approximately 12 acres. Access to a public Street would be accomplished by using an alternative private drive way connecting to 3600 West. The intent is to allow construction of a single family home to be built in the future. A formal application for a residential subdivision for the new lot will be submitted this summer. The majority of the acreage (approximately 11 acres) will continue to be used as agriculture. The private access would be 12 to 20 feet in width and improved to specifications required by Weber County.

## **Reasons for the Request**

1. The original request for a private drive submitted in March, 2018 indicated that the Frankes would have sufficient frontage on 3600 West to dedicate a 66' ROW. For this reason, the County Engineering Staff felt the 66' ROW should be dedicated and the private drive should be denied.

Prior to the administrative review meeting, the Frankes discovered that they would only be given 34' of frontage on 3600 West. Consequently, they no longer would have sufficient frontage to create the 66' ROW. They requested that their item be pulled from the agenda so an amended application could be created and submitted.

2. Ordinance LUC §108-7-31(1)(c) indicates a full developed right of way should be provided unless the following can be shown:

*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.*

Since submitting the original application, Mr and Mrs. Franke have discovered that property boundary conditions on the property have changed. In order to accommodate the other party being given property, Mrs Franke's Father (Lavar Hipwell) has changed the amount of property being given to the Franks. Consequently, the Franks will have less frontage property to create the required ROW. **The Franks will now have only 34.4' of frontage on 3600 West.** There is not sufficient property to create the full 66' ROW required. The Franks are requesting approval for a private drive for a single home. The other party and Mr. Hipwell have already recorded the warranty deed transferring ownership of the other part of the property to the other party.

3. The original application included a private drive for 3 new homes. However, since the County has indicated the full 66' ROW would be required, the other two parties wanting to build homes have decided to not build at this time. Further, The other property owner does not wish to participate in dedicating or developing the 66' ROW required by the County at this time.
4. The Franks will sign an agreement to provide their portion(33 feet) of the 66' ROW in the future. However, another party owns the remainder of the property needed for the 66' ROW. A copy of the recorded deed describing the property given to the Franks has been attached to show how much frontage the Franks own.
5. The majority of the property owned by the Franks will continue to be used as farm land. Only enough property to provide the private drive and to build the home and provide landscaping around the home will be in residential use.

WHEN RECORDED, MAIL TO:  
 Alan and Cynthia Franke  
 3392 N 2575 South  
 Ogden, Utah 84404



\*W2918044\*

EH 2918044 PG 1 OF 1  
 LEANN H KILTS, WEBER COUNTY RECORDER  
 30-APR-18 429 PM FEE \$10.00 DEP JKC  
 REC FOR: ALAN FRANKE

## Warranty Deed

Weber County Affecting Tax ID. No.15-045-0064

Lavar Jay Hipwell, with Full Rights of Survivorship, Grantor, of Ogden, County of Weber, State of Utah, hereby CONVEYS AND WARRANTS to Alan W. and Cynthia A. Franke, Grantee, of Ogden, County of Weber, State of Utah, for the sum of TEN (\$10.00), dollars, and other good and valuable considerations, the following described parcel of land in Weber County, State of Utah, to-wit:

A parcel of land, being part of an entire tract of property recorded as Entry No. 2480293 in the Weber County Recorder's Office, All of Lot 12 & part of Lot 13, Section 16, T. 6 N., R. 2 W., S.L.B&M. The boundaries of said parcel of land are described as follows:

Beginning at the Northwest Corner of said Lot 12 and running thence North 87°57' East 1036.80 feet, thence South 4° 27' East 450 feet, thence North 87° 57' East 323.40 Feet, thence South 4° 27' thence East 33.97 feet more or less, thence South 88° 57' 1378.55 feet to the west Boundary of Lot 13, thence North 2° 15' West 482.7 feet to the point of beginning at the northwest corner of said lot 12. The above parcel contains 11.96 acres or 520,977 Square feet.


Subject to the right of way for 3600 West Street.

**WITNESS**, the hand of said Grantor, this 30<sup>th</sup> day of April, A.D. 20 18.

STATE OF Utah )  
 ) ss.  
 COUNTY OF Weber )

  
 Grantor, Lavar Jay Hipwell  
 with Full Rights of Survivorship

On the date first above written personally appeared before me,  
Lavar Jay Hipwell, with Full Rights of Survivorship, the signer of the within and foregoing instrument, who duly acknowledged to me that they executed the same.

  
 Notary Public

