



## 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 the rear lot of a future two lot subdivision.

**Agenda Date:** Wednesday, June 28, 2017

**Applicant:** Kevin Schildhauer

**File Number:** AAE 2018-04

#### Property Information

**Approximate Address:** 4186 N 3175 W, Ogden, UT, 84404

**Project Area:** 2.58 Acres

**Zoning:** Agricultural Zone (A-1)

**Existing Land Use:** Vacant

**Proposed Land Use:** Vacant/Residential

**Parcel ID:** 19-010-0086

**Township, Range, Section:** T7N, R2W, Section 22

#### Adjacent Land Use

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

#### Staff Information

**Report Presenter:** Tammy Aydelotte  
[taydelotte@co.weber.ut.us](mailto:taydelotte@co.weber.ut.us)  
801-399-8794

**Report Reviewer:** RG

### Applicable Land Use Codes

- Weber County Land Use Code Title 104 (Zones) Chapter 15 (Agricultural A-1 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

The Planning Division is recommending approval of the request for an alternative access for the rear lot of a future two lot subdivision.

The property is in the Agricultural A-1 Zone located at approximately 4186 N 3175 W and is 2.58 acres. The private right-of-way is located just off 3175 West, of Section 16 of Township 7 North, Range 2 West.

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 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

General Plan: The General Plan for Western Weber is intended to preserve private property rights while also preserving the rural characteristics of the area. This proposal conforms to the Western Weber General Plan.

Zoning: The subject property is located in the Agricultural Zone more particularly described as the A-1 zone. The purpose and intent of the A-1 zone is identified in the LUC §104-5-1 as:

*"The purpose of the A-1 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment."*

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.

Review Agencies: To date, the proposed alternative access has been approved by the Weber County Engineer as well as Weber Fire District. All review agency requirements must be addressed and completed prior to this alternative access being recorded.

Tax Clearance: The 2017 property taxes have been paid in full. The 2018 taxes are will be due in full November 30, 2018.

Public Notice: A notice has been mailed not less than seven calendar days before final approval to all property owners of record within 500 feet of the subject property regarding the proposed small subdivision per noticing requirements outlined in LUC §106-1-6.

## 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 12' x 269' private right-of-way as the primary access for the rear lot of a future two lot subdivision.

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.

## Administrative Approval

Administrative final approval of an alternative access as the primary access for parcel # 23-007-0003 is hereby granted based upon its compliance with the Weber County Land Use Code. This approval is subject to the requirements of applicable review agencies and the conditions of approval listed in this staff report.

Date of Administrative Approval: Wednesday, August 29, 2018

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Rick Grover  
Weber County Planning Director

## Exhibits

- A. Map of Location
- B. Application and Narrative
- C. Site Plan

## Exhibit A-Location map



## 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 <i>29 May 2018</i>	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) Kevin Schildhauer		Mailing Address of Property Owner(s) 2567 N 2575 W Farr West UT, 84404	
Phone 208-286-8974	Fax		
Email Address (required) krschildhauer@yahoo.com		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 Schildhauer Ranch Subdivision	Total Acreage 2.58	Current Zoning A1	
Approximate Address 4186 N 3175 W Ogden UT, 84404	Land Serial Number(s) 190100086		
Proposed Use Residential			
<b>Project Narrative</b> I currently have a lot that is 2.58ac in size. I would like to subdivide that lot into two lots. One lot would be 1ac and the other would be 1.58ac. The larger of the two lots would be located behind the other with no way to access it. I would like to get approved for an access by private right of way before I submit the subdivision application to ensure there wont be any issues accessing the larger lot. <i>Also, There is a 20ft x 14ft deep irrigation ditch to the East of my property that prevents access and Two other Houses on the property that is backed up to mine that boundes my lot to the East,</i>			

## 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), Kevin Schildhauer, 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.

Kevin Schildhauer Property Owner \_\_\_\_\_ Property Owner

Subscribed and sworn to me this 29<sup>th</sup> day of May, 2018.

Kary C. Serrano Notary



### Authorized Representative Affidavit

I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorize 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



## Exhibit C-Site Plan



↑  
14 ft deep  
water canal