



Staff Report for Administrative Approval

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request to use a private right-of-way as the primary access to a lot without frontage on a street.

Agenda Date: Thursday, December 27, 2012

Applicant: Spencer and Heather Ferrin

File Number: Access by Private ROW 2012-01

Property Information

Approximate Address: 3300 North River Drive (Approximate)

Project Area: 10.84 Acres

Zoning: Agricultural Valley Zone (AV-3)

Existing Land Use: Residential/Agriculture

Proposed Land Use: Residential/Agriculture

Parcel ID: 22-022-0075

Township, Range, Section: T7N, R1E, Section 28

Adjacent Land Use

North: Agriculture	South: Agriculture
East: Residential/Agriculture	West: 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 5-B (AV-3 Zone)
- Weber County Zoning Ordinance Chapter 23 (Supplementary and Qualifying Regulations)

Background

The applicants are requesting administrative approval to use a private right-of-way as the primary access to a lot without frontage on a street. The proposed lot is located at approximately 3300 North River Drive and contains 10.84 acres. The proposed right-of-way is located on the southern boundary of Lot 3 of Nipko Estates and it connects the proposed lot to River Drive. The applicants have provided a letter from the property owner which states that a perpetual access easement will be granted for their use, though the right-of-way has not yet been recorded. The right-of-way is required to meet the design, safety, and lot/parcel standards listed in Chapter 23 Section 29 of the Zoning Ordinance. In addition to these standards, the right-of-way is required to comply with the criteria and conditions listed in Chapter 23 Section 31 of the Zoning Ordinance which is specific to access by a private right-of-way. These standards are listed below under "Summary of Planning Division Considerations". Approval of the private right-of-way as the primary access does not act as approval of the subsequent subdivision plat. The 10.84 acre parcel is still required to go through the subdivision process to become a legal building lot.

Summary of Planning Division Considerations

23-31. 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:

1. 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. 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.

2. 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.

Staff has reviewed and analyzed the request for access by a private right-of-way using the criteria in Chapter 23 Section 31. Based on review and analysis of staff's research and the information provided, staff has made the following determinations:

- Property boundary conditions are such that the parcel to be subdivided does not have access from a street and the applicants do not own additional property adjacent to a street that could be used to create a flag lot or build a road. If a road was required, other property owners adjacent to this property would have to agree to participate in its construction on their land.
- Construction of a road to serve this lot from Highway 162 is impractical because the Story property where the road would be located has several existing structures including a dwelling. A road located in this area would be disruptive to the existing dwelling and agricultural operation. It is impractical for a road serving one lot to be constructed in this area. A potential road from River Drive also has structures in the area that limit potential locations, as well as the North Fork of the Ogden River which requires a bridge. Due to these circumstances, construction of a road to serve one lot is impractical.
- The applicants have provided a letter of intent from Mark Ferrin to provide a right-of-way. As mentioned previously, this access comes from River Drive, across Mr. Ferrin's property, to the applicants' property. The right-of-way is less than 1,000 feet in length, but it does cross the North Fork of the Ogden River and a bridge is required. This right-of-way makes more sense than a right-of-way through the Story property from Highway 162 because River Drive has less traffic, a lower speed limit, and Mr. Ferrin has already stated that he will grant the right-of-way. The right-of-way must be recorded prior to submittal of a subdivision application.
- Prior to submittal of a subdivision application, the applicants must also sign an agreement 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 with a street that would serve as a required access to additional lots.

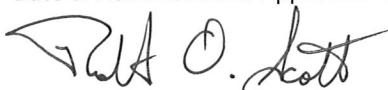
Conditions of Approval

- The right-of-way must be recorded prior submittal of a subdivision application.
- Prior to submittal of a subdivision application, the applicants must sign an agreement 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 with a street that would serve as a required access to additional lots.

Staff Administrative Approval

Based upon the findings listed above, Administrative Approval for use of a private right-of-way as the primary access to a lot without frontage on a street is hereby approved.

Date of Administrative Approval: Thursday, December 27, 2012



Robert O. Scott
Weber County Planning Director

Exhibits

- A. Applicant narrative
- B. Map of adjoining property owners
- C. Site plan showing the right-of-way and future home location
- D. Warranty Deed for property
- E. Right-of-way letter from Mark Ferrin

Map 1

