



Staff Report for Administrative Approval – Access Exception for a Private Right-of-Way

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request to use a private right-of-way (ROW) as the primary access for one lot (Lot 3 of Verhaal/Granath Subdivision) without frontage on a street.

Agenda Date: Thursday, January 02, 2014

Applicant: Cassidy and Loni Verhaal

File Number: Access Exception (AE 2013-06)

Property Information

Approximate Address: 9035 East 100 South (Approximate)

Project Area: 3.5 Acres (Approximate size of Lot 3 Verhaal/Granath Subdivision)

Zoning: Agricultural Valley AV-3 Zone

Existing Land Use: Agriculture

Proposed Land Use: Residential Subdivision

Parcel ID: 21-025-0036 (ROW and Subdivision Location)

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

Adjacent Land Use

North: Agriculture	South: Agriculture
East: Residential/School (Waypoint Academy)	West: Residential/Agriculture

Staff Information

Report Presenter: Sean Wilkinson
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Report Reviewer: JG

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)

Background

The applicants are requesting administrative approval to use a right-of-way (ROW) as the primary access for Lot 3 of Verhaal/Granath Subdivision which is located on the southern end of the subdivision and has no street frontage. Lot 3 is located at approximately 9035 East 100 South in the East Huntsville area and contains approximately 3.5 acres. The proposed ROW is located on Lot 2 (which is a flag lot with a 20 foot wide stem) adjacent to the west boundary of Lot 1. The ROW connects Lot 3 to Highway 39 (approximately 834 feet) through Lot 2 where the ROW entrance is located. Lots 2 and 3 share this entrance as well as the first 322 feet of the flag stem/ROW.

The applicants currently own the property where the ROW will be located, but Lot 2 will be conveyed to a family member when the subdivision is recorded, so the ROW must be legally established prior to this conveyance. The subdivision plat has dedication language for the proposed ROW which satisfies the condition for demonstrating legal and appropriate access.

The proposed ROW is required to meet the design, safety, and lot/parcel standards listed in Title 108 Chapter 7 Section 29 of the Weber County Land Use Code. In addition to these standards, the ROW is required to comply with the criteria and conditions listed in Section 31, which is specific to access by a private ROW. These standards are listed below under "Summary of Planning Division Considerations." Approval of the private ROW as the primary access does not act as approval of the subsequent subdivision plat.

Summary of Planning Division Considerations

108-7-31. 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 ROW using the criteria in 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 Lot 3 does not have frontage on a street. Constructing a road to serve this lot and provide frontage would not be practical or feasible due to lot area requirements and existing structures (barns and a single-family dwelling) that would be disrupted by a new 60 foot wide road. Lot 1 is required to have two acres as a non-conforming lot, Lot 2 is required to have three acres in addition to the area located within the flag lot stem, and Lot 3 is required to have three acres. A new 60 foot wide road from Highway 39 to Lot 3 would take up approximately 1.15 acres, which would reduce the overall developable area and eliminate one of the lots from the subdivision. In addition, this is the only lot in the subdivision being served by a right-of-way, as Lot 1 has adequate frontage and Lot 2 is approved as a flag lot. Therefore, it is impractical to require a road which will serve only Lot 3 and will not provide a stub to adjoining property. A 16 foot wide ROW was already in place prior to the subdivision application submittal, though it has been released and will be replaced by the new 20 foot wide ROW. The Utah Department of Transportation (UDOT) also limits access from state roads and encourages shared access points. For these reasons which are specific to this application, the most practical location for the ROW is over the flag stem and through Lot 2 as shown on the subdivision plat.
- The ROW is shown on a subdivision plat that has been submitted to the Planning Division. The ROW must be in place or a financial guarantee for the improvement costs is required prior to final subdivision approval from the Weber County Commission.
- Prior to final subdivision approval from the Weber County Commission, 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 ROW with a street that would serve as a required access to additional lots.

Conditions of Approval

- The subdivision plat has dedication language for the proposed ROW which satisfies the condition for demonstrating legal and appropriate access. The ROW will not be established until the subdivision plat is signed and recorded.
- Prior to final subdivision approval, 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 ROW with a street that would serve as a required access to additional lots.
- Meeting applicable review agency requirements.

Staff Administrative Approval

Based upon the findings listed above, administrative approval for use of a private right-of-way as the primary access for a lot without street frontage (Lot 3 of Verhaal/Granath Subdivision) is hereby approved this 2nd day of January, 2014.

Sean Wilkinson
Weber County Planning Director

Exhibits

A. Verhaal/Granath Subdivision Plat

Map



