



## 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 one lot in a future two-lot subdivision.

**Agenda Date:** Wednesday, September 02, 2020

**Applicant:** Brian and Susan Savitt (Authorized Representatives)

**File Number:** AAE 2020-04

#### Property Information

**Approximate Address:** 3248 E 3350 N, Eden, UT 84310

**Project Area:** 9.62 Acres

**Zoning:** Agricultural Valley 3 Zone (AV-3)

**Existing Land Use:** Vacant

**Proposed Land Use:** Residential

**Parcel ID:** 22-354-0002

**Township, Range, Section:** T7N, R1E, Section 29 NW

#### Adjacent Land Use

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

#### Staff Information

**Report Presenter:** Scott Perkes  
sperkes@co.weber.ut.us  
801-399-8772

**Report Reviewer:** RG

### Applicable Land Use Codes

- Title 104 (Zones) Chapter 6 (Agricultural Valley 3 (AV-3) Zone)
- Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations) Section 29 (Flag lot access strip, private right-of-way, and access easement standards)
- 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 of a private access easement to provide access to one lot in a future two lot subdivision (see **Exhibit A**). If this application for an alternative access by private right-of-way is approved, the owner will apply for a two-lot subdivision to split the subject property into two lots for single-family homes (see **Exhibit B**).

### Analysis

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**.*

The applicant has submitted a narrative (see **Exhibit A**) along with this application explaining their arguments as to why it would be impractical to extend a street to serve the proposed future subdivision. In this narrative the applicant explains that they intend to split the subject parcel in half through the width of the parcel rather than through the length of the parcel.

This is desired to create more block-shaped lots rather than long linear lots. While enough frontage exists along 3350 North Street to create two long and linear lots of at least 150 feet of width, the applicant would much prefer to create block-shaped lots by splitting the parcel through its width. This would facilitate the siting of buildings such as homes, accessory buildings, and ease on-site circulation. For this reason, the applicant believes that it is impractical for this parcel to require both future lots to take frontage off of 3350 North Street or dedicate a full county road to service the one northern-most lot.

LUC §108-7-31 outlines the following condition that must be met as part of alternative access approval:

*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.*

The access easement must meet the design, safety, and parcel/lot standards outlined LUC §108-7-29(a) (b), and (c) prior to issuance of a certificate of occupancy on any home that will gain access from the access easement. Based on the submitted concept plat (see **Exhibit B**), the proposed access easement would be 20 feet wide and approximately 640 feet long.

Review Agencies: The applicant will be required to comply with all review agency requirements prior to issuance of a certificate of occupancy on any home that will gain access from the access easement.

### Staff Recommendation

Staff recommends approval of AAE 2020-04, to provide access by private access easement to a future two lot subdivision, as shown on the concept plan included as Exhibit B. The recommendation for approval is subject to review agency requirements and the following conditions:

1. The access easement shall comply with the design, safety, and parcel/lot standards, as outlined in LUC §108-7-29.
2. The applicant shall agree to file the required alternative access covenant, as outlined in LUC §108-7-31, prior to the recording of the future subdivision.
3. The improved travel surface of the access easement shall be a minimum of 12 feet wide and shall be capable of supporting 75,000 lbs. In addition, and Per LUC Sec. 108-7-29(a)(5), a turnout measuring 10'x40' will be required at the midpoint of the access easement.


Approval is based on the following findings:

1. The applicant has demonstrated that extending a fully improved road to one lot is not practical due to the parcel's property boundary conditions.

### Administrative Approval

Administrative final approval of AAE 2020-04 to create a private road that would serve as an access to one future residential lot.

Date of Administrative Approval: SEPT 2 2020

  
Rick Grover  
Planning Director

### Exhibits

- A. Alternative Access Exception Application
- B. Concept Plat

Property Map



**Exhibit A: Application and Narrative**

<b>Weber County Alternative Access Application</b>			
Application submittals will be accepted by appointment only. (801) 399-6791, 2980 Washington Blvd. Suite 200, Ogden, UT 84401			
Date Submitted /Completed <b>8/17/2020</b>	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) <b>Brian Jay and Susan Savitt</b>		Mailing Address of Property Owner(s) <b>PO BOX 932 Eden, UT 84310</b>	
Phone <b>801-309-6939</b>	Fax <b>n/a</b>		
Email Address (required) <b>savitt77@gmail.com</b>		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) <b>Susan Savitt</b>		Mailing Address of Authorized Person <b>PO BOX 932 Eden, UT 84310</b>	
Phone <b>801-309-6939</b>	Fax		
Email Address (required) <b>savitt77@gmail.com</b>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
<b>Property Information</b>			
Project Name <b>Long Meadow Subdivision</b>		Total Acreage <b>9.6</b>	Current Zoning <b>AV3</b>
Approximate Address <b>3248 E. 3350 N Eden, UT 84310</b>		Land Serial Number(s) <b>Tax ID 22-354-0002</b>	
Proposed Use <b>Residential / Agricultural</b>			
Project Narrative Alternate access is requested although there is sufficient frontage to divide the property lengthwise (North to South) <ul style="list-style-type: none"> <li>- Dividing property in a more block shape vs less desirable long thin shape</li> <li>- Gives a more diverse use for the property including: out buildings, farming/crops, circulation, animals, building locations &amp; size.</li> <li>- Value is significantly higher for properties that have a more open layout and less restrictive setbacks.</li> <li>- Well and septic locations will be further apart from neighboring properties with a block-like subdivision</li> </ul>			

Narrative continued

- view corridor down 3350 N. will be less crowded and will appear more rural by subdividing in a block like subdivision.
- Block-like subdivision will meet the needs of Weber County

### 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), Brian Jay Savitt and Susan Savitt, 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      [Signature] Property Owner

Subscribed and sworn to me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
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 17 day of August, 2020, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

[Signature] Notary



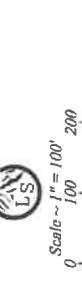
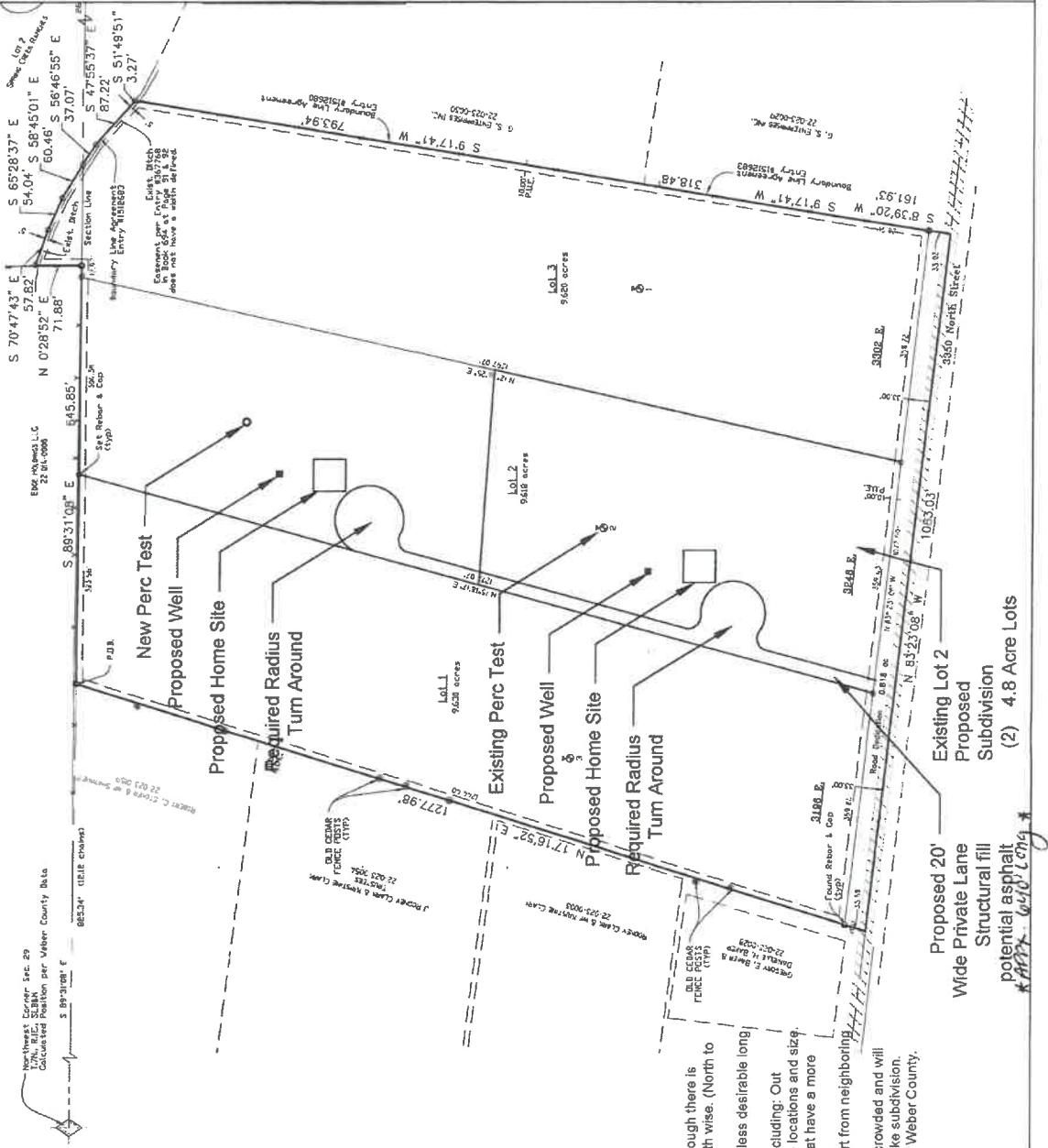
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Concept Plan

VALLEY DESIGN BUILD  
EDEN, UTAH 801-510-7142

PROPERTY OF VALLEY DESIGN BUILD. ANY USE OF THIS PROPERTY WITHOUT WRITTEN CONSENT FOR BIDDING OR INSTALLATION IS PROHIBITED.

PART OF THE NW 1/4 OF SECTION 29 TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN UNINCORPORATED WEBER COUNTY, UTAH - MAY 2016 Exhibit B



- Legend**
- EXISTING FENCE
  - EASEMENTS
  - STREET CENTERLINE
  - ◆ FND SECTION CORNER
  - FND REBAR AND CAP
  - SET 45x24" REBAR AND CAP STAMPED LANDMARK
  - ROAD/STREET DEDICATION

**NOTE:**

- Agriculture is the preferred use in the agricultural zone. The use of other uses as described in the Land Use Code for a particular zone is permitted at any time including the operation of a farm, ranch, or other agricultural use, provided that the use does not interfere with the use of the land for agriculture. The use of the land for agriculture shall be consistent with the objectives of (future residents of) this subdivision, (Amnt. Ord., Sec. 106-1-1-(c)(5)).
- The subdivision, (Amnt. Ord., Sec. 106-1-1-(c)(5)) shall be consistent with the objectives of (future residents of) this subdivision, (Amnt. Ord., Sec. 106-1-1-(c)(5)).
- Page 31 & 32 of Official Records. This recorded subdivision all owners will accept responsibility for this property until curb and gutter is installed.

Alternate Access Narrative: is requested although there is sufficient frontage to divide the property length wise. (North to south)

- \*Dividing property in a more block shape vs. less desirable long lineal shape.
- Gives a more diverse use for the property including: Out buildings, farming/ crops, circulation, building locations and size.
- Value is significantly higher for properties that have a more open layout and less restrictive setbacks.
- Well and Septic locations will be further apart from neighboring properties with a block like subdivision.
- View corridor down 3350 North will be less crowded and will appear more rural by subdividing in a block like subdivision.
- Block like subdivision will meet the needs of Weber County.