



## 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 (ROW) as the primary access for two lots without frontage on a street.

**Agenda Date:** Friday, August 09, 2013

**Applicant:** Matthew and Laura Rasmussen

**File Number:** Access Exception (AE 2013-03)

#### Property Information

**Approximate Address:** 6050 South 2900 East (Approximate)

**Project Area:** 2.58 Acres

**Zoning:** Residential Estates Zone (RE-20)

**Existing Land Use:** Residential

**Proposed Land Use:** Residential

**Parcel ID:** 07-574-0001 (Subdivision Lots) 07-254-0010 (ROW Location)

**Township, Range, Section:** T5N, R1W, Section 24

#### Adjacent Land Use

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

#### Staff Information

**Report Presenter:** Sean Wilkinson  
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801-399-8765

**Report Reviewer:** JG

### Applicable Land Use Codes

- Weber County Land Use Code Title 104 (Zones) Chapter 3 (Residential Estates Zones RE-15 and RE-20)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations)

### Background

The applicants are requesting administrative approval to use a ROW as the primary access for two lots without street frontage. The proposed lots are located at approximately 6050 South 2900 East in the Uintah Highlands area and contain a total of 2.59 acres. The proposed ROW is located on the southern boundary of property owned by Weber County (Lot 36, Eastwood Subdivision No. 10, Parcel # 07-254-0010) and formerly used as a retention pond (Bybee Pond). It connects the proposed lots to 2900 East Street (approximately 180 feet) where the ROW entrance is located. Once the ROW leaves County property it continues along the western boundary of Lot 3 approximately 440 feet and terminates in a turn-around area on Lot 2.

The applicants have provided an e-mail from Nate Pierce, Weber County Operations Director, which states that the County is willing to help them get where they want to be on the access exception approval, subject to more comprehensive plans being submitted. Updated plans were submitted on July 31, 2013 and are currently under review. Weber County has not yet approved a ROW agreement and this administrative approval is subject to future approval from the Weber County Commission. A separate document establishing the ROW on Lots 2 and 3 is also required in addition to showing the ROW on the subdivision plat.

The 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 the lots to be subdivided do not have access from a street. Although the applicants do own adjacent property with frontage on Melanie Lane, access to the proposed lots at this location would not be practical or feasible due to steep slopes (the property is a restricted lot), an existing dwelling, and a stream. A road located in this area would be disruptive to the existing dwelling and dangerous due to steep slopes and other geo-technical considerations i.e., surface rupture faults and landslides. It is impractical for a road serving only two lots to be constructed in this area.
- The applicants have provided an e-mail from Nate Pierce, Weber County Operations Director which infers that the County's intent is to provide a ROW once adequate plans have been submitted and approved. The ROW is shown on preliminary subdivision plats that have been submitted to the Planning Division. Both portions of the ROW must be in place prior to final subdivision approval.
- Prior to approval 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 ROW with a street that would serve as a required access to additional lots.

## Conditions of Approval

- A ROW for Lots 2 and 3 must be obtained from Weber County and this ROW as well as the ROW on Lot 3 for Lot 2 must be recorded and shown on the final subdivision plat.
- 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.

## Staff Administrative Approval

Based upon the findings listed above, administrative approval for use of a private right-of-way as the primary access for two lots without street frontage is hereby approved this 9<sup>th</sup> day of August, 2013.



Robert O. Scott  
Weber County Planning Director



## Exhibits

- A. Applicant narrative
- B. Site plan showing the right-of-way and future lot boundaries
- C. E-mail from Nate Pierce, Weber County Operations Director

## Map

