



## 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 three lots in a future three-lot subdivision.

**Agenda Date:** Wednesday, October 14, 2020

**Applicant:** Robert Marker (Owner)

**File Number:** AAE 2020-06

#### Property Information

**Approximate Address:** 3196 E 3350 N, Liberty, UT

**Project Area:** 9.63 Acres

**Zoning:** Agricultural Valley 3 Zone (AV-3), Forest Valley 3 Zone (FV-3)

**Existing Land Use:** Vacant

**Proposed Land Use:** Residential

**Parcel ID:** 22-354-0001

**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> Residential/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 104 (Zones) Chapter 14 (Forest Valley 3 (FV-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 three lots in a future three 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 three-lot subdivision to split the subject property into three 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 at this time to extend a street to serve the proposed future subdivision. In this narrative the applicant

explains that they intend to split the subject parcel into three lots 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. 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 to require the created lots to take frontage off of 3350 North Street or dedicate a full county road to service the three lots being created by the proposed subdivision.

In reviewing the application, staff identified potential regional connectivity points that could potentially be made in the future along the western property line of the subject property line. The initial alternative access exemption application contemplated the proposed access easement along the eastern boundary of the subject property. However, following discussions with staff and review of potential future connectivity within the region, the applicant agreed to submit an amended site plan that relocated the proposed access easement from the east to the west property line. This configuration will facilitate the easement's conversion into a public right-of-way should potential future development warrant the need for additional regional connectivity.

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. In addition to these standards, and in order to facilitate the future conversion of this easement to a public right-of-way, staff recommends that the access easement be 33 feet wide and approximately 1,278 feet long in order to match a half-width right-of-way all along the western boundary of the property.

**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 2020-06, to provide access by private access easement to a future three 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 easement must be at least 33 feet wide and traverse the full length of the subject parcel (approximately 1,278 feet) to facilitate potential future conversion of the easement to a public right-of-way.
3. 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.

Approval is based on the following findings:

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

### Administrative Approval

Administrative final approval of AAE 2020-06 to create a private road that would serve as an access to three future residential lots.

Date of Administrative Approval: 10/14/2020

  
Rick Grover - Planning Director

### Exhibits

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

Property Ma



**Exhibit A: Application and Narrative**

<b>Weber County Alternative Access Application</b>			
Application submittals will be accepted by appointment only. (801) 399-8791, 2380 Washington Blvd. Suite 240, Ogden, UT 84401			
Date Submitted /Completed	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 type="checkbox"/> Access by Private Right of Way <input checked="" type="checkbox"/> Access at a location other than across the front lot line			
<b>Property Owner Contact Information</b>			
Name of Property Owner(s) Robert Marker		Mailing Address of Property Owner(s) 3972 N 550 W Pleasant View UT 84414	
Phone 801-564-0910	Fax	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required) rob@ithrivefunding.com			
<b>Authorized Representative Contact Information</b>			
Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax	Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address (required)			
<b>Property Information</b>			
Project Name Marker Family Fields	Total Acreage 9.63	Current Zoning Greenbelt	
Approximate Address 3196 E 3350 N Liberty, UT	Land Serial Number(s) 223540001		
Proposed Use Home and greenbelt activity (crops and/or cattle)			
<b>Project Narrative</b> Land owner is requesting an alternative access be granted in preparation to subdivide 9.63 acres into three 3 acre lots. Based upon the layout of the land, an alternative access along the east property line will provide ability to access the three proposed parcels. Dividing property in block shapes running west to east, rather than long narrow division (North to South), would provide the following benefits: <ul style="list-style-type: none"> <li>- Gives more diverse use for property including: out buildings, farming, circulation, building locations and size</li> <li>- Value of land is higher with wider frontages as opposed to narrow ones</li> <li>- View corridor down 3350 North will be less crowded and will maintain a more rural look</li> <li>- Block like subdivision will meet minimum acre requirement of the county</li> </ul> Land owner's intention is to subdivide into 3 parcels and keep two of the lots for himself and sell 3rd lot once/if subdivision is approved.			

**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), Robert Marker, 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.

Robert Marker Property Owner \_\_\_\_\_ Property Owner

Subscribed and sworn to me this 11 day of SEPT, 2020.

Melissa Spencer Notary



**Authorized Representative Affidavit**

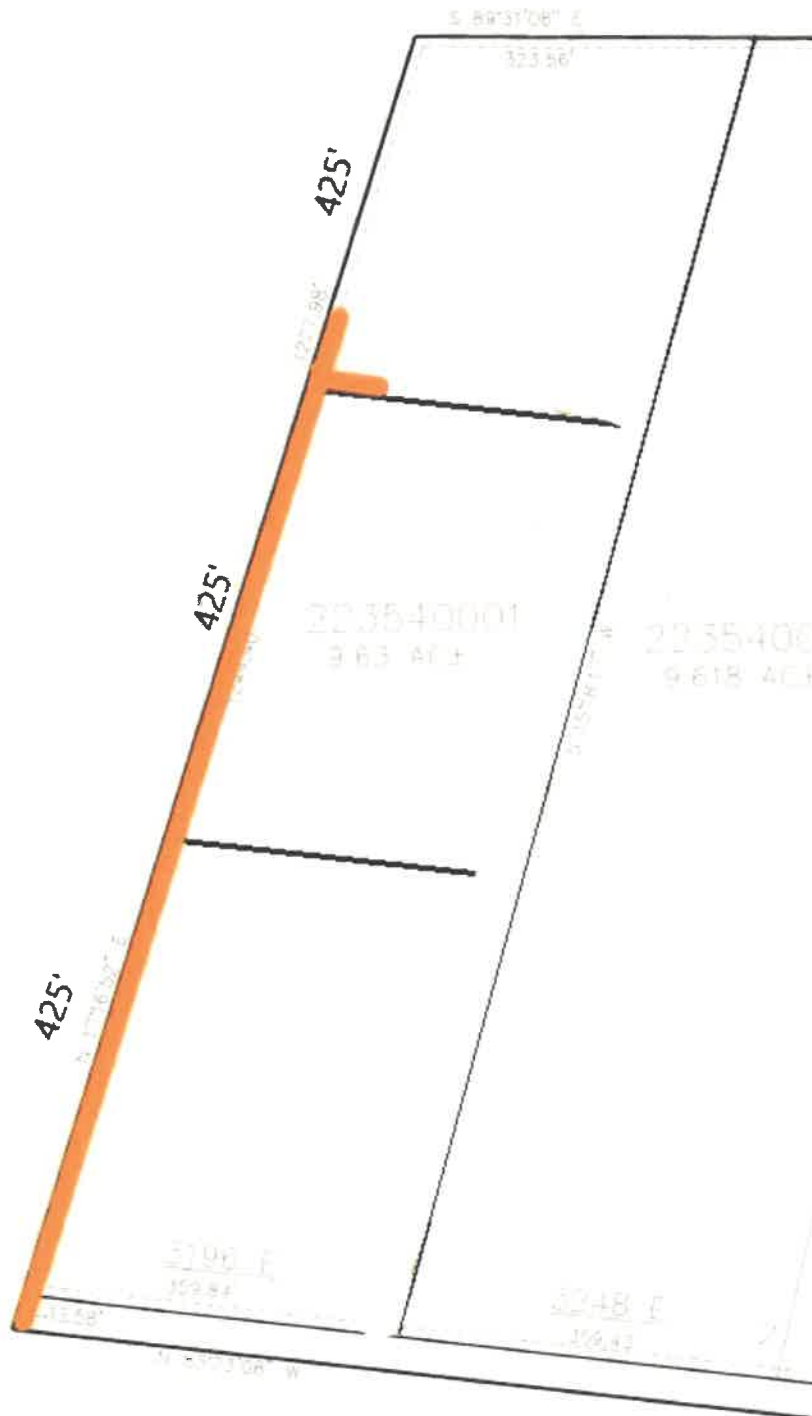
I (We), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_ Property Owner \_\_\_\_\_ Property Owner

Dated this \_\_\_\_\_ 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 B: Concept Plan



3550 NORTH S