



Staff Report to the Weber County Planning Division

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for approval of Higuera Subdivision, a one lot subdivision.

Agenda Date: Wednesday, February 17, 2021

Applicant: Raymond and Chelsey Higuera, owner

File Number: UVH011121

Property Information

Approximate Address: 5389 N 3325 E, Liberty

Project Area: 6.05 Acres

Zoning: Agricultural Valley 3 (AV-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 22-005-0036

Township, Range, Section: T7N, R1E, Section 8

Adjacent Land Use

North: Vacant	South: Residential
East: Vacant	West: Residential

Staff Information

Report Presenter: Felix Lleverino
fleverino@co.weber.ut.us
801-399-8767

Report Reviewer: RG

Applicable Land Use Codes

- Title 101 (General Provisions) Chapter 1 (Definitions)
- Title 104 (Zones) Chapter 6 (Agricultural Valley, AV-3)
- Title 104 (Zones) Chapter 9 (Forest Zones)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands Overlay District)
- Title 106 (Subdivisions) Chapter 1 (General Provisions) Section 8 (Final Plat Requirements)

Development History

On July 23, 2019, Mr. Higuera requested that the Planning Division research this parcel to determine whether it is buildable. When the research was complete, it was determined non-buildable. As a means to qualify this property as a buildable lot, the parcel of real property would need to identify as a lot on a subdivision plat.

Background and Summary

The applicant is requesting approval of a one lot subdivision that will gain access from 3325 East Street, a public right-of-way. A section of land that is 3' by 191' is dedicated to the public right-of-way as requested by the County Engineering Department. 3325 East Street meets the standard for a public road according to the County Engineering Department.

The front half of the property is within the AV-3 zone and the rear half is within the F-5 zone.

Weber County Engineering has identified an intermittent stream that runs through the property that requires a 50' stream corridor set-back. The property also contains a flood zone that is largely within the 50' stream corridor set-back area. If the owner wishes to create a stream crossing, the County Engineer would require a professionally engineered stream crossing.

As part of the approval process, the proposal has been reviewed against the current Weber County Land Use Code (LUC), and the standards of the FV-3 zone found in LUC §104-14. The following section is a brief analysis of this project against current land use regulations.

Analysis

General Plan: This proposal conforms with Ogden Valley General Plan (OVGP) by encouraging low-density development that preserves open space (see page 21 of the OVGP).

Zoning: The property is located in the AV-3 Zone. The purpose of this zone is stated in the LUC §104-6-1.

“The purpose of the AV-3 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment.”

The rear portion of the property is located within the F-5 Zone.

“The forest zones intend to protect and preserve the natural environment of those areas of the county that are characterized by mountainous, forest or naturalistic land, and to permit development compatible to the preservation of these areas.”

This property complied with AV-3 and F-5 site development standards.

Small Subdivision: “The planning Director is delegated administrative authority to approve small subdivisions if in his discretion there are no conditions which warrant its submittal to the planning commission LUC §106-1-8 (f).” This proposal qualifies as a small subdivision consisting of three or fewer lots for which no new streets are being created or realigned.

Flood Zone: This parcel is within an area of minimal flood hazard and determined to be outside the 500-year flood level. The subdivision plat depicts a flood zone “A” that is mostly with the stream corridor (see Exhibit A).

Sensitive Lands: The Weber County Sensitive Lands Map indicates the presence of an ephemeral stream that runs across the property. The required 50’ stream corridor setback line is depicted on the plat where no structures may be placed. If the owner wishes to construct a crossing, the Weber County Engineering Department requires that a licensed engineer designs the river crossing and that the plans are approved by County Engineering.

Culinary Water: Culinary and secondary water will be sourced from a private well that has been permitted by the State Engineer but yet to be drilled.

Sanitary System: Weber-Morgan Health Department has provided a letter stating that the groundwater tables fall within a range of acceptability for the placement of a wastewater disposal system.

Review Agencies: The Weber County Fire District has approved this proposal conditional upon the placement of a fire hydrant or a fire suppression system may be required. The latest plat addresses Planning, Engineering, and Surveyor’s comments. The applicant has submitted a separate subdivision application to the Weber-Morgan Health Department. It is anticipated that the Health Department will approve the final plat that shows the well protection area, test pit location, and soil horizons.

Tax Clearance: The 2020 property taxes have been paid in full. The 2021 property taxes are due in full as of November 30, 2021.

Public Notice: Noticing was provided to all property owners of record within 500 feet of the subject property.

Staff Recommendation

Staff recommends final plat approval of Higuera Subdivision, consisting of 1 lot. This recommendation for approval is subject to all review agency requirements and based on the following conditions:

1. The owner shall enter into the Deferral Agreement for curb gutter and sidewalk.
2. The area dedicated to the public ROW shall be presented and accepted by the County Commission.
3. If a stream crossing is built, the plans to construct the crossing shall be approved by the County Engineering Department.

The following findings are the basis for the Planning Staff’s recommendations:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. The proposed subdivision complies with the applicable County codes.

Administrative Approval

Administrative final approval of Higuera Subdivision, consisting of 1 lot, is hereby granted based upon its compliance with the Weber County Land Use Code. This approval is subject to the requirements of applicable review agencies and the conditions of approval listed in this staff report.

Date of Administrative Approval: 2/17/21


Rick Grover
Weber County Planning Director

Exhibits

- A. Higuera Subdivision Plat
- B. Higuera Subdivision Plat with Contour lines
- C. Current Recorders Plat
- D. Health Department feasibility letter
- E. Well permit

Area Map



SECTION 8, T.7N., R.1E., S.L.B. & M.

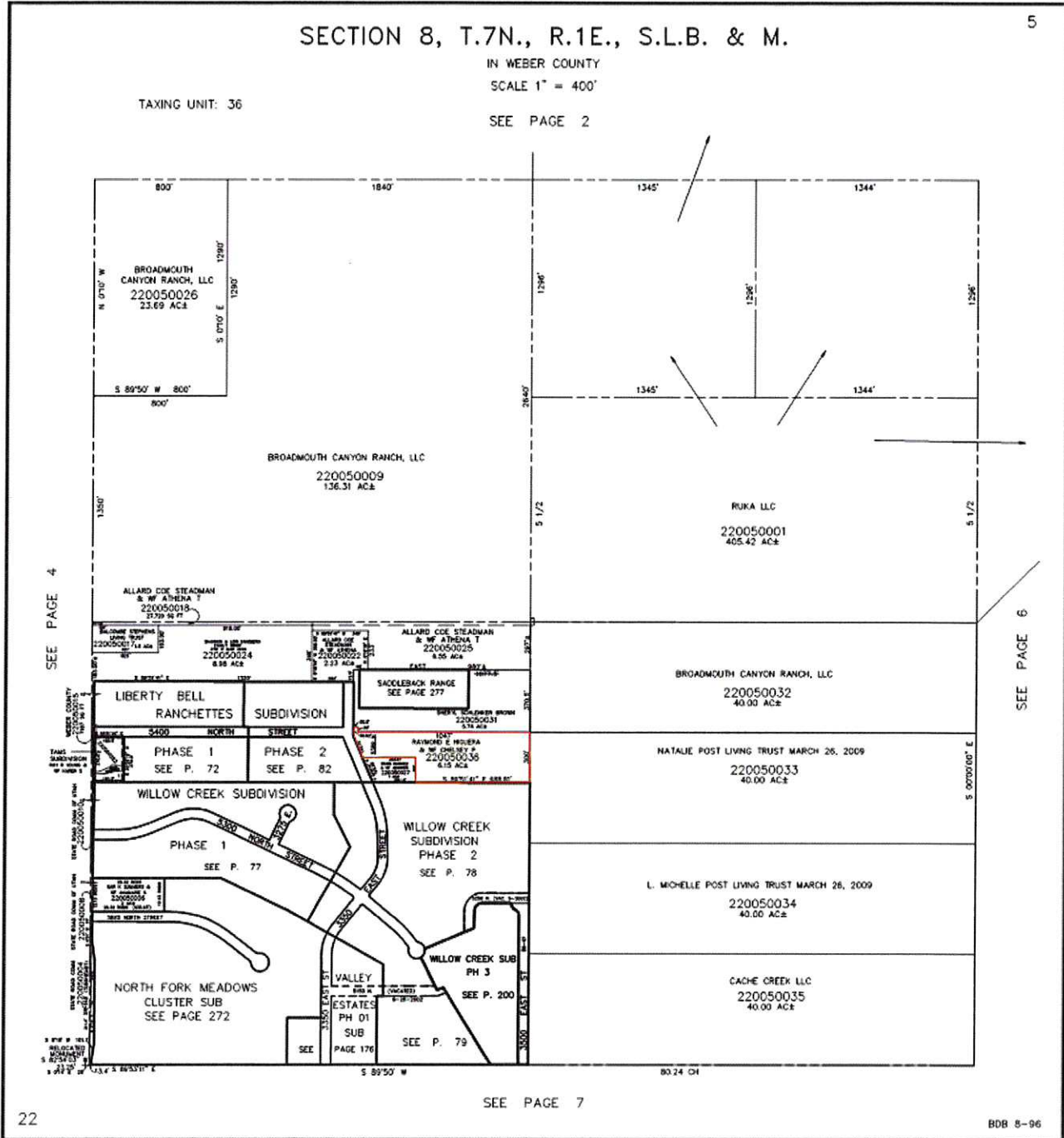
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IN WEBER COUNTY

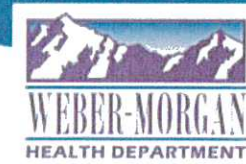
SCALE 1" = 400'

TAXING UNIT: 36

SEE PAGE 2



BRIAN W. BENNION, M.P.A., L.E.H.S.
Health Officer/Executive Director



August 13, 2019

Weber County Planning Commission
2380 Washington Blvd.
Ogden, UT 84401

RE: Raymond Higuera
5366 N 3325 E (Approx.), Huntsville
Parcel #22-005-0036
Soil log #14868

Gentlemen:

The soil and percolation information for the above-referenced lot have been reviewed. Culinary water will be provided by a private well. **The placement of the well is critical so as to provide the required 100 foot protection zone.** The well will need to be dug, tested and the water supply approved prior to issuance of a wastewater disposal permit.

DESIGN REQUIREMENTS

Anticipated ground water tables not to exceed 48 inches, fall within the range of acceptability for the utilization of a Pack-Bed Media Treatment System as a means of wastewater disposal. Maximum trench depth is limited to 24 inches. The absorption field is to be designed using a maximum loading rate of 0.90 gal./sq. ft./day as required for the gravelly coarse loamy sand, single grain structure soil horizon.

Plans for the construction of any wastewater disposal system are to be prepared by a Utah State certified individual and submitted to this office for review prior to the issuance of a Wastewater Disposal permit.

The following items are required for a formal **subdivision review**; application, receipt of the appropriate fee, and a full sized copy of the subdivision plats showing the location of exploration pits and percolation tests as well as the documented soil horizons and percolation rates. A subdivision review will not occur until all items are submitted. Mylars submitted for signature without this information will be returned.

Each on-site individual wastewater disposal system must be installed in accordance with R317-4, Utah Administrative Code, Individual Wastewater Disposal Systems and Weber-Morgan District Health Department Rules. Final approval will be given only after an on-site inspection of the completed project and prior to the accomplishment of any backfilling.

Please be advised that the conditions of this letter are valid for a period of 18 months. At that time, the site will be re-evaluated in relation to rules in effect at that time.

Sincerely,

Craig Jorgensen, L.E.H.S.
Environmental Health Division
801-399-7160

CJ/gk

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phone 801-399-7100 | fax 801-399-7110 | 477 23rd Street Ogden UT 84403 | www.webermorganhealth.org



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

BRIAN C. STEED
Executive Director

TERESA WILHELMESEN
State Engineer/Division Director

ORDER OF THE STATE ENGINEER

For Exchange Application Number 35-13729 (E6053) OCT 7 2020

Exchange Application Number 35-13729 (E6053) in the names of Raymond and Chelsey Higuera was filed on July 27, 2020, to exchange 1.00 acre-foot of water, as evidenced by Water Right Number 35-827 (A27608) owned by the U.S. Bureau of Reclamation and a contract (Number 29569 associated with Tax I.D. Number 22-005-0036) for its use with Weber Basin Water Conservancy District (WBWCD). The 1.00 acre-foot of water is to be released from Pineview Reservoir and, in lieu thereof, 1.00 acre-foot of water will be diverted from: (1) Well - North 1911 feet and West 652 feet from the S¼ Corner of Section 8, T7N, R1E, SLB&M (6-inch well, 100-500 feet deep). The water is to be used for the irrigation of 0.1833 acre from April 1 to October 31; and year-round, indoor, domestic requirements of 1.00 equivalent domestic unit (EDU). The water is to be used in all or portion(s) of Section 8, T7N, R1E, SLB&M.

Notice of the exchange application was published in the Standard Examiner on August 20 and 27, 2020. No protests were received.

It is the opinion of the State Engineer that this exchange application can be approved without adversely affecting existing rights. The applicants are put on notice that diligence must be shown in pursuing the development of this application, which can be demonstrated by the completion of the project as proposed in the exchange application.

It is, therefore, **ORDERED** and Exchange Application Number 35-13729 (E6053) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicants and WBWCD. This contract must be maintained for this exchange to remain valid. No water may be withdrawn under this application if a contract is not in effect.
- 2) Total diversion under this exchange application is limited to 1.00 acre-foot of water per year for the irrigation of 0.1833 acre (0.55 acre-foot) from April 1 to October 31; and year-round, indoor, domestic requirements of 1.00 EDU (0.45 acre-foot).
- 3) The applicant shall maintain controlling works and a metering device as required by Section 73-5-4 of the Utah Code.
- 4) The water being exchanged shall be released from Pineview Reservoir into Ogden River as called for by the river commissioner.

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The applicants are strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicants to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before **October 31, 2025**, or a request for extension of time must be acceptably filed; otherwise, the application will be lapsed. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to, or use of land or facilities not owned by the applicants.

When the work is complete, an Affidavit of Beneficial Use may be submitted by an applicant without hiring a proof professional if it qualifies under statute. An affidavit qualifies if all of the following criteria are met:

- The water right is associated with a residence, either full- or part-time. (NOTE: Any irrigation or stock use on the affidavit must be associated with the residence.)
- The water use is for a quarter acre of irrigation or less.
- The water use is for the watering of ten head of livestock (or equivalent) or less.
- The water use does not include any uses in addition to the three listed above.

As noted, this approval is granted subject to prior rights. The applicants shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among parties or decreed by a court of competent jurisdiction.

Under the authority of Section 73-3-20 of the Utah Code, the applicants are required to submit a proof of diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses and extent of your water right.

Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicants must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights, which may be approved to be diverted from those sources.

SCANNED RC

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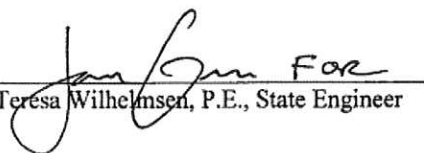
Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this exchange application.

It is the applicants' responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership. Additionally, if ownership of this water right or the property with which it is associated changes, the records of the Division of Water Rights should be updated. For assistance in updating title to the water right, please contact the Division at the phone number below.

Your contact with this office, should you need it, is with the Weber River/Western Regional Office. The telephone number is 801-538-7240.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or for judicial review with the appropriate District Court. A Request for Reconsideration must be filed in writing with the State Engineer within 20 days of the date of this Order. The written request shall be filed in-person, by mail, or electronically. If the request is filed electronically it shall be submitted to: waterrights@utah.gov, which is the authorized general email for the Division. However, a Request for Reconsideration is not a prerequisite to filing for judicial review. A petition for judicial review must be filed within 30 days after the date of this Order or, if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 7 day of October, 2020.


Teresa Wilhelmsen, P.E., State Engineer

SCANNED RC

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Mailed a copy of the foregoing Order this 7 day of October, 2020 to:

Raymond and Chelsey Higuera
4752 E 3900 N
Eden UT 84310

Weber Basin Water Conservancy District
2837 East Highway 193
Layton UT 84040

Cole Panter, River Commissioner
PO Box 741
OGDEN UT 84402

Division of Water Rights
Distribution Section
c/o Susan Odekirk
OGDEN RIVER

BY: Doralee Cannon
Doralee Cannon, Applications/Records Secretary

SCANNED RC