



Staff Report for Administrative Approval

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on the application for final approval of Hillside Haven Subdivision, consisting of 3 lots, located at approximately 3196 E 3350 N, Liberty.

Agenda Date: Wednesday, March 10, 2021

Applicant: Robert Marker

File Number: UVH012121

Property Information

Approximate Address: 3196 E 3350 N, Liberty

Project Area: 9.63

Zoning: AV-3

Existing Land Use: Agriculture

Proposed Land Use: Residential

Parcel ID: 22-354-0001

Township, Range, Section: T7N, R1E, Section 29, NW 1/4

Adjacent Land Use

North: Agriculture	South: Residential
East: Agriculture	West: Residential

Staff Information

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

Report Reviewer: RG

Applicable Ordinances

- Title 101, Chapter 1, General Provisions, Section 7, Definitions
- Title 104, Chapter 6 Agricultural Valley (AV-3) Zone
- Title 106, Subdivisions, Chapter 1-8 as applicable
- 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 and Summary

This proposed subdivision (see **Exhibits A & B**) was recently granted an Alternative Access Exemption through File # AAE 2020-06 (see **Exhibit C**). This alternative access exemption allowed for primary access to be provided to a three-lot subdivision where the proposed configuration would not allow the two rear lots to be accessible from a county dedicated road.

The Weber County Land Use Code (LUC) §101-1-7 identifies a subdivision of three or fewer lots, for which no new streets are being created or realigned, as a "Small Subdivision". A Small Subdivision can be administratively approved by the Planning Director. The proposed subdivision and lot configuration are in conformance with the current zoning as well as the applicable subdivision requirements as required in the LUC.

Analysis

General Plan: The proposal conforms to the Ogden Valley General Plan by maintaining the existing density provided by the current zoning and existing approvals (2016 Ogden Valley General Plan, Land Use Principle 1.1).

Zoning: The subject property is located in the Agriculture Valley (AV-3) Zone. The purpose and intent of the AV-3 zone is identified in the LUC §104-6-1 as:

The AV-3 Zone is both an agricultural zone and a low-density rural residential zone. The purpose of the AV-3 Zone is to:

- a) Designate low-intensity farm areas, which are anticipated to develop in a rural residential development pattern;*
- b) Set up guidelines to continue agricultural pursuits, including the keeping of farm animals; and*
- c) Direct orderly low-density residential development in a continuing rural environment.*

All three of the proposed lots maintain the minimum acreage of at least three acres and the minimum lot width of at least 150 feet. Lot 1 will be accessible from both 3350 North Street as well as the access easement (to become 3200 East Street). Lots 2 and 3 will gain access from the access easement.

Future Road Right-of-Way Easement: The subdivision code references a requirement to provide access to adjacent parcels, as deemed necessary by the land use authority. In order to facilitate the desired future extension of 3200 East Street along the parcel's western boundary, the Planning Division has requested that the applicant grant a Future Road Right-Of-Way Easement to the County. This easement has been depicted on the plat and is secured with dedication language and plat notes. The Planning Division has also required that the applicant record a "Building on a Private Right-Of-Way/Access Easement Equitable Servitude and Covenant" immediately prior to recording the subdivision mylar. Lastly, the applicant will be required to enter into a recorded Subdivision Improvements Deferral Agreement for curb, gutter, sidewalk, and roadway improvements (asphalt) within the depicted right-of-way for the future 3200 East Street.

These measures have been required to ensure that this Future Road Right-of-Way Easement will be deeded over to the county as public right-of-way at a time of the County's choosing, without compensation for the underlying land to the owners or assigns. The Access Exemption Covenant along with the Subdivision Improvements Deferral Agreement ensure the owner will pay a proportionate share of the roadway improvements for 3200 East Street at a time in which the County deems appropriate.

This Future Road Right-Of-Way Easement scenario was crafted in an effort to honor the previously granted Alternative Access Exemption for three lots, while still allowing the county to acquire the land and ensure the installation of an extended 3200 East Street at no cost to the County.

As an additional requirement under this scenario, staff recommends that the land encumbered by the Future Road Right-of-Way Easement be deeded over to the County immediately following the recording of the subdivision mylar. This will ensure ownership of all lots remain under single ownership at the time of deed transfer, and that the County is able to acquire the right-of-way with minimal administrative time or effort.

Sensitive Lands: A review of the Ogden Valley Sensitive Lands Overlay Districts has found the proposed subdivision free of any applicable restrictions.

Culinary water and sanitary sewage disposal: Culinary water will be provided by a private well and sanitary sewage disposal will be provided by an on-site septic system. A feasibility letter has been provided by the health department for the septic system (see **Exhibit D**). The applicant has submitted a Well Permit as approved through the Weber-Morgan Health Department (see **Exhibit E**). The applicant has also submitted an Order of the State Engineer for the exchange of 3 acre-feet of water for the irrigation and domestic use of one domestic unit (see **Exhibit F**).

Review Agencies: The Weber County Engineering Division, the Weber County Surveyor's Office, the Weber-Morgan Health Dept., and Weber Fire District have reviewed the proposal. Prior to the subdivision being released for Mylar, all review agencies comments will need to be addressed.

Public Notice: The required noticing for the final subdivision plat approval has been mailed to all property owners of record within 500 feet of the subject property regarding the proposed subdivision per noticing requirements outlined in LUC §106-1-6(b).

Staff Recommendation

Staff recommends final approval of the Hillside Haven Subdivision. This recommendation for approval is subject to all applicable review agency requirements and is based on the following conditions:

1. The access lane providing access to the two rear lots must be installed per the standards outlined in LUP Sec. 108-7-29 prior the recording of the final mylar. Alternatively, the estimated cost of the improvements (as approved by the County Engineer) may be escrowed for prior to the recording of the final mylar.
2. All required agreements, as outlined by staff reviews, must be recorded immediately prior to, or immediately after the final plat mylar.

This recommendation is based on the following findings:

1. The proposed subdivision amendment conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with all applicable County ordinances.

Administrative Approval

Administrative final approval of Hillside Haven Subdivision 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 throughout this staff report.

Date of Administrative Approval: APRIL 13, 2021



Weber County Planning Director

Exhibits

- A. Proposed Subdivision Plat
- B. Notice of Decision – AAE 2020-06
- C. Weber-Morgan Health Department Septic Feasibility Letter
- D. Well Permit
- E. Order of the State Engineer (culinary and secondary water)

Location Map 1





Weber County

Weber County Planning Division
www.co.weber.ut.us/planning_commission
2380 Washington Blvd., Suite 240
Ogden, Utah 84401-1473
Voice: (801) 399-8371
Fax: (801) 399-8862

Weber County Planning Division
NOTICE OF DECISION

October 21, 2020

Robert Marker
3196 E 3350 N
Liberty, UT 84310

You are hereby notified that your application for an Alternative Access Exemption, located on Parcel ID 22-354-0001 was heard and conditionally approved by the Weber County Planning Division in a public meeting held on Wednesday October 14, 2020. Conditional approval was granted upon meeting all requirements from county reviewing agencies 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.

The next step in the process is to ensure complete compliance with the above listed conditions of approval. If all conditions have been met, the proposed three-lot subdivision application may proceed through the County review and approval process. This letter is intended as a courtesy to document the status of your project. If you have further questions, please contact me at sperkes@co.weber.ut.us or 801-399-8772.

Sincerely,

Scott Perkes
Planner II
Weber County

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



November 12, 2020

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

RE: Robert Marker
3196 E 3350 N, Huntsville UT
Parcel #22-354-0001
Soil log #15096

Gentlemen:

An evaluation of the site and soils at the above-referenced address was completed by staff of this office on November 4, 2020. The exploration pits are located at the referenced GPS coordinates and datum. The soil texture and structure, as classified using the USDA system, are as follows:

Exploration Pit #1 (UTM Zone 12T, Nad 83, 427120 E 4574667 N)
0-20" Gravelly Sandy Loam, Granular Structure, 15% Gravel
20-55" Gravelly Sandy Loam, Blocky Structure, 30% Gravel
55-96" Gravelly Sandy Loam, Massive Structure, 30% Gravel
96-108" Very Gravelly Sandy Loam, Massive Structure, 50% Gravel

Exploration Pit #2 (UTM Zone 12T, Nad 83, 427157 E 4574792 N)
0-26" Gravelly Sandy Loam, Granular/Blocky Structure, 15% Gravel
26-77" Gravelly Sandy Loam, Massive Structure, 30% Gravel
77-115" Very Gravelly Coarse Sandy Loam, Massive Structure, 50% Gravel

Exploration Pit #3 (UTM Zone 12T, Nad 83, 427187 E 4574893 N)
0-24" Gravelly Sandy Loam, Granular Structure, 25% Gravel
24-73" Very Gravelly Coarse Sandy Loam, Massive Structure, 60% Gravel
73-98" Gravelly Sandy Loam, Massive Structure, 30% Gravel, Common Red Mottling
98-118" Very Gravelly Coarse Sandy Loam, Massive Structure, 60% Gravel

Exploration pits should be backfilled immediately upon completion to prevent a hazardous environment that may cause death or injury to people or animals.

DESIGN REQUIREMENTS

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.

Lots 1-3: Anticipated ground water tables not to exceed 60 inches, fall within the range of acceptability for the utilization of a Conventional Wastewater Disposal System as a means of wastewater disposal. Maximum trench depth is limited to 18 inches. The absorption system is to be designed using a maximum loading rate of 0.45 gal/ft²/day as required for the gravelly-very gravelly sandy loam, massive structure soil horizons.

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 plat 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

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phone: 801-399-7100 | fax: 801-399-7110 | 477 23rd Street, Ogden, UT 84401 | www.webermorganhealth.org

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,



Ryan Klinge
Environmental Health Division
801-399-7160

Weber-Morgan Health Department
Environmental Health Division
477 23rd Street
Ogden, UT 84401

Well/Spring Permit

ROBERT MARKER
3196 E 3350 N
LIBERTY, UT 84310

MIKE ZIMMERMAN #527

OCTOBER 26, 2020

Permit Date

Brian Bennion

Brian W. Bennion, MPA, LEHS, Health Officer

Keep on drilling site



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

BRIAN C. STILES
Executive Director

JERESA WILHELMSEN
State Engineer Division Director

ORDER OF THE STATE ENGINEER
For Exchange Application Number 35-13711 (E6035)

Exchange Application Number 35-13711 (E6035) in the name of Robert Marker was filed on June 12, 2020, to exchange 3.00 acre-feet of water as evidenced by Water Right Number 35-827 (A27608) owned by the U.S. Bureau of Reclamation and a contract (Number 56133 associated with Tax I.D. Number 22-354-0001) for its use with Weber Basin Water Conservancy District (WBWCD). The 3.00 acre-feet of water is to be released from Pineview Reservoir and, in lieu thereof, 3.00 acre-feet of water will be diverted from: (1) Well - South 214 feet and East 908 feet from the NW Corner of Section 29, T7N, R1E, SLB&M (6-inch well, 100-500 feet deep). The water is to be used for the irrigation of 0.8043 acre from April 1 to October 31; year-round, indoor, domestic requirements of 1.00 equivalent domestic unit (EDU); and year-round stockwatering of 4.9 equivalent livestock units (ELUs), in cattle, horses, or equivalent species. The water is to be used in all or portion(s) of Section 29, T7N, R1E, SLB&M.

Notice of the exchange application was published in the Standard Examiner on June 25 and July 2, 2020. No protests were received.

This Exchange Application seeks to replace a portion of Exchange Application Number 35-6715 (E1276) contract number 56034 for 9.0 acre-feet. A 3.0 acre-feet portion of the original contract supporting Exchange Application Number 35-6715 (E1276) in the name of the Nelson Children Trust has been transferred to the applicants. Administrative action will be handled in a separate Notice of Lapsing for Exchange Application Number 35-6715 (E1276), which will need to be replaced because the contract no longer reflects the amount of water described under the exchange.

It is the opinion of the State Engineer that this exchange application can be approved without adversely affecting existing rights. The applicant is 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 35-13711 (E6035) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicant 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 3.00 acre-feet of water per year for the irrigation of 0.8043 acre (2.413 acre-feet) from April 1

1594 West North Temple, Suite 220, PO Box 146300, Salt Lake City, UT 84114-6300
telephone (801) 538-7240 • facsimile (801) 538-7467 • www.waterrights.utah.gov

ORDER OF THE STATE ENGINEER
Exchange Application Number
35-13711 (L26035)
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- to October 31; year-round, indoor, domestic requirements of 1.00 FDU (0.45 acre-foot); and year-round stockwatering of 4.9 E.F.U.s (0.137 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.

The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant 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 September 3, 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 applicant.

As noted, this approval is granted subject to prior rights. The applicant 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 applicant is 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 applicant 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.

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 applicant's 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


ORDER OF THE STATE ENGINEER
Exchange Application Number
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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 4 day of September, 2020.


Tofesa Wilhelmsen, P.E., State Engineer

ORDER OF THE STATE ENGINEER

Exchange Application Number

35-13711 (E6035)

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Mailed a copy of the foregoing Order this 4 day of September 2020 to:

Robert Marker
3972 North 550 West
Pleasant View UT 84414

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

DRILLER (START) CARD for EXCHANGE: E6035(35-13711)

IMPORTANT: THIS CARD MUST BE RECEIVED BY THE DIVISION OF WATER RIGHTS PRIOR TO THE BEGINNING OF WELL CONSTRUCTION. PROOF DUE/EXPIRATION DATE: September 30, 2025
START CARDS CAN BE SUBMITTED ONLINE WITH THE WATER RIGHT NUMBER OR NON-PRODUCTION WELL NUMBER AND THE PIN.
ONLINE SUBMISSION EXCHANGE: E6035 ONLINE SUBMISSION PIN: 489721
ONLINE SUBMISSION URL: <https://waterrights.utah.gov/startcard/>

OWNER/APPLICANT NAME: Robert Marker
MAILING ADDRESS: 3972 North 550 West, Pleasant View UT 84414,
PHONE NUMBER: _____
WELL LOCATION: S 214' E 908' from NW Cor. S29, T7N, R1E, S1B&M,
WELL UTM COORDINATES: Northing: 4574873 Easting: 427170
WELL ACTIVITY: NEW(X) REPLACE() REPAIR() DEEPEN()
PROPOSED START DATE: _____
PROJECTED COMPLETION DATE: _____
LICENSE #: _____ LICENSEE/COMPANY: _____

Licensee Signature Date

NOTICE TO APPLICANT: THIS CARD IS TO BE GIVEN TO A UTAH-LICENSED WATER WELL DRILLER FOR SUBMITTAL TO THE DIVISION OF WATER RIGHTS PRIOR TO WELL CONSTRUCTION
STATE OF UTAH DIVISION OF WATER RIGHTS Phone No. 801-538-7416 - FAX No. 801-538-7467

COMMENTS: _____

START CARDS MAY ALSO BE SUBMITTED BY PHONE*, FAX, OR EMAIL.
PHONE: 801-538-7416 - FAX: 801-538-7467 - EMAIL: waterrights_wells@utah.gov
*IF THE START CARD IS PHONED IN, THEN THE COMPLETED AND SIGNED START CARD MUST BE RETURNED TO THE DIVISION OF WATER RIGHTS BY FAX, EMAIL, OR MAIL.

APPLICANT CARD for EXCHANGE: E6035(35-13711)

IMPORTANT: THIS CARD MUST BE COMPLETED, SIGNED AND RETURNED BY THE WELL OWNER/APPLICANT AS SOON AS THE WELL IS DRILLED BY A LICENSED UTAH WATER WELL DRILLER. PROOF DUE/EXPIRATION DATE: September 30, 2025

OWNER/APPLICANT NAME: Robert Marker

MAILING ADDRESS: 3972 North 550 West, Pleasant View UT 84414.

PHONE NUMBER: _____

WELL LOCATION: S 214' E 908' from NW Cor. S29, T7N, R1E, SLB&M.

WELL UTM COORDINATES: Northing: 4574873 Easting: 427170

WELL ACTIVITY: NEW(X) REPLACE () REPAIR () DEEPEN ()

WELL COMPLETION DATE: _____

NAME OF DRILLING COMPANY/LICENSEE: _____

Owner/Applicant Signature

Date

NOTICE TO APPLICANT: COMPLETE AND RETURN THIS PORTION UPON FINAL WELL COMPLETION.
DO NOT GIVE THIS CARD TO LICENSED WELL DRILLER - YOU MUST RETURN IT.

STATE OF UTAH DIVISION OF WATER RIGHTS Phone No. 801-538-7416 • FAX No. 801-538-7467

COMMENTS: _____

START/APPLICANT CARD INSTRUCTIONS: First, for each well, you must give a Driller (Start) Card to the licensed driller with whom you contract to construct the well. Second, it is your responsibility to sign and return this Applicant Card to this office immediately after completion of the well. **CAUTION:** There may be local health requirements for the actual siting of your well. Please check with the proper local authority before construction begins. See the enclosed sheet addressing construction information.