

# Staff Report for Administrative Approval - Access **Exception for a Private Right-of-Way**

Weber County Planning Division

**Application Information** 

**Application Request:** Consideration and action on a request to use a private right-of-way (ROW) as the primary

access for one lot (Lot 3 of Verhaal/Granath Subdivision) without frontage on a street.

Agenda Date: Applicant:

Thursday, January 02, 2014 Cassidy and Loni Verhaal

File Number:

Access Exception (AE 2013-06)

**Property Information** 

Approximate Address:

9035 East 100 South (Approximate)

Project Area:

3.5 Acres (Approximate size of Lot 3 Verhaal/Granath Subdivision)

Zoning:

Agricultural Valley AV-3 Zone

Existing Land Use:

Agriculture

Proposed Land Use:

Residential Subdivision

Parcel ID:

21-025-0036 (ROW and Subdivision Location)

Township, Range, Section: T6N, R2E, Section 16

Adjacent Land Use

North:

Agriculture

South:

Agriculture

East:

Residential/School (Waypoint Academy)

West:

Residential/Agriculture

**Staff Information** 

Report Presenter:

Sean Wilkinson

swilkinson@co.weber.ut.us

801-399-8765

Report Reviewer:

JG

## **Applicable Land Use Codes**

Weber County Land Use Code Title 104 (Zones) Chapter 6 (Agricultural Valley AV-3 Zone)

Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplementary and Qualifying Regulations)

### Background

The applicants are requesting administrative approval to use a right-of-way (ROW) as the primary access for Lot 3 of Verhaal/Granath Subdivision which is located on the southern end of the subdivision and has no street frontage. Lot 3 is located at approximately 9035 East 100 South in the East Huntsville area and contains approximately 3.5 acres. The proposed ROW is located on Lot 2 (which is a flag lot with a 20 foot wide stem) adjacent to the west boundary of Lot 1. The ROW connects Lot 3 to Highway 39 (approximately 834 feet) through Lot 2 where the ROW entrance is located. Lots 2 and 3 share this entrance as well as the first 322 feet of the flag stem/ROW.

The applicants currently own the property where the ROW will be located, but Lot 2 will be conveyed to a family member when the subdivision is recorded, so the ROW must be legally established prior to this conveyance. The subdivision plat has dedication language for the proposed ROW which satisfies the condition for demonstrating legal and appropriate access.

The proposed 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 Lot 3 does not have frontage on a street. Constructing a road to serve this lot and provide frontage would not be practical or feasible due to lot area requirements and existing structures (barns and a single-family dwelling) that would be disrupted by a new 60 foot wide road. Lot 1 is required to have two acres as a non-conforming lot, Lot 2 is required to have three acres in addition to the area located within the flag lot stem, and Lot 3 is required to have three acres. A new 60 foot wide road from Highway 39 to Lot 3 would take up approximately 1.15 acres, which would reduce the overall developable area and eliminate one of the lots from the subdivision. In addition, this is the only lot in the subdivision being served by a right-of-way, as Lot 1 has adequate frontage and Lot 2 is approved as a flag lot. Therefore, it is impractical to require a road which will serve only Lot 3 and will not provide a stub to adjoining property. A 16 foot wide ROW was already in place prior to the subdivision application submittal, though it has been released and will be replaced by the new 20 foot wide ROW. The Utah Department of Transportation (UDOT) also limits access from state roads and encourages shared access points. For these reasons which are specific to this application, the most practical location for the ROW is over the flag stem and through Lot 2 as shown on the subdivision plat.
- The ROW is shown on a subdivision plat that has been submitted to the Planning Division. The ROW must be in place or a financial guarantee for the improvement costs is required prior to final subdivision approval from the Weber County Commission.
- Prior to final subdivision approval from the Weber County Commission, 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**

- The subdivision plat has dedication language for the proposed ROW which satisfies the condition for demonstrating legal and appropriate access. The ROW will not be established until the subdivision plat is signed and recorded.
- 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.
- Meeting applicable review agency requirements.

## Staff Administrative Approval

Based upon the findings listed above, administrative approval for use of a private right-of-way as the primary access for a lot without street frontage (Lot 3 of Verhaal/Granath Subdivision) is hereby approved this 2<sup>nd</sup> day of January, 2014.

Sean Wilkinson

Weber County Planning Director

## **Exhibits**

A. Verhaal/Granath Subdivision Plat

### Map



GREAT BASIN O This is to certify that this subdivision plat was duly approved by the Weber County Planning Commission. Signed this day of . 2013. BULLIN 1475 EAST DOORN, UTAN 84403 WEBER COUNTY PLANNING COMMISSION APPROVAL AGRICULTURAL STATEMENT S 88"29"52" 100 South Street (U-39) ent & Mikelie Wei I hereby certify that the required public imprevement standards and drawings for this subditionaries with County standards and the amount of thancial guarantee is sufficient for the installation has improvements. WEBER COUNTY ENGINEER Row Weber County Enginee Leaf of the Monthmark Quarter of Scattlen 15, Township 6 North, Ronge 2 Card, Schl

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A part of the Northwest 1/4 of Section 16, TEN, RZE, SLEAM, U.S. Survey This is to certify that this subdivision plot, the dediction of sixes and other pubble ways and financial paradies of public improvements associated with this subdivision, thereon or a heraby approved and accapited by the commissioners of Reber County, Urah, Signed this WEBER COUNTY COMMISSION ACCEPTANCE Chairman, Weber County Comission N 0'36'19" Weber County, Utah November 2013 SBB Holdings LLC If hereby certify that the Waber County Surveys's Office not reviewed this plad for methematiked corrections, section come date, and for beaming with place and memorated or need to County Offices. The place and memorated or need to County Offices in the plant that the tented cost Surveyor that securing that plat from the representations and to tabelities classified howevalls. C-120 FREE HIS ACC FREE HIS ACCOUNTS FROM HIS AC Yead Protection Zone Education WEBER COUNTY SURVEYOR Subdivision State of Ulah County of Weber | 55 On the day of day of the Ady of the signer of the observed one. The undersigned Notary Public, the signers of the observed oner's Dediction, two, in number, who duly acknowledged to me that of the purposes therein mentioned. 0.05' S 89"/5"00" E Cheryl Hales Gabbitas Donald Savage & Sal enter 290.40 2 Especiales HI JIP 100 CONTROLLER SACRETURE 12-124 SIGNED BOOM, DEPOSITE BOOM, D I have examined the iterantic parameter and other documents associated with this subdivision piot, and in my aphiban they conform with the County Ordinance applicable thereto and now in force and offect.

Signed this day of 2013. A Notary Public commissioned in Ulah (Rid) becomes to be set
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