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MARCY M MURRAY, Recorder
WASATCH COUNTY CORPORATION
For: ERNSTSEN ENTERPRISES LC

The Order of the Court is stated below:

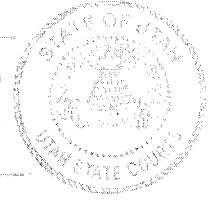
Dated: April 06, 2022
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/s/ JENNIFER A. BROWN
District Court Judge

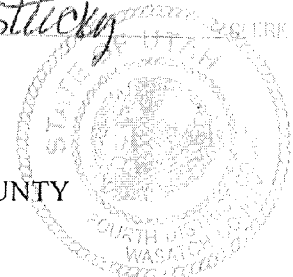


Stephen G. Stoker (#3122)
Stoker & Swinton
311 South State Street, Ste. 450
Salt Lake City, Utah 84111
Telephone: (801) 359-4000
Fax No.: (801) 359-4004
Email: sgstoker@stokerswinton.com

STATE OF UTAH
COUNTY OF WASATCH
I hereby certify that the document to
which this certificate is attached is a
full, true and correct copy of the
original filed in the Utah State Courts
WITNES my hand and seal
this 8 day of APRIL
2022



DISTRICT JUDICIAL COURT
Jennifer A. Brown



Attorneys for Plaintiff Ernstsen Enterprises, LC

IN THE FOURTH JUDICIAL DISTRICT COURT FOR WASATCH COUNTY

STATE OF UTAH

<p>ERNSTSEN ENTERPRISES, LC, a Utah limited liability company,</p> <p>Plaintiff,</p> <p>v.</p> <p>LYNDSEY LAFAY and BRANDON LAFAY,</p> <p>Defendants.</p>	<p><u>MODIFIED BY THE COURT</u></p> <p><u>AMENDED SUMMARY JUDGMENT</u></p> <p>Civil No. 210500044 Judge Jennifer A. Brown</p>
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Before the Court is Plaintiff Ernstsen Enterprises, LC, (“Plaintiff” or “Ernstsen Enterprises”) Motion for Summary Judgment and accompanying exhibits filed July 26, 2021, Defendants Brandon and Lyndsey Lafay (“Defendants” of the “Lafays”) Memorandum in Opposition to the Motion for Summary Judgment with accompanying declarations and exhibits filed August 10, 2021, and Plaintiff’s Reply in Support of the Motion for Summary Judgment, with accompanying Exhibits filed August 17, 2021.

Oral arguments on the Motion for Summary Judgment were held on October 5, 2021,

with Plaintiff represented by Stephen G. Stoker and Defendants represented by Krystal N. Koch. At the end of the oral arguments, the Court took the Motion under advisement, and scheduled a hearing on November 1, 2021, for the presentation of an oral Ruling on the Motion. The Court presented an oral Ruling on the Motion at the hearing on November 1, 2021, where Plaintiff's Motion for Summary Judgment was granted in part and denied in part, and now enters the written Summary Judgment set forth herein.

Summary Judgment

A moving party is entitled to summary judgment if there are no disputed issues of material fact, and the party is entitled to judgment as a matter of law. Summary Judgment is proper in this case based on the undisputed facts set forth in Plaintiff's Motion for Summary Judgment, and the application of Utah law to the undisputed facts.

Property Ownership and Location of the Easement Area

Plaintiff owns the real property in Wasatch County, Utah, consisting of approximately 14 acres, described on Exhibit "A" attached hereto and incorporated herein by reference (the "Ernstsen Property"). The Ernstsen Property is outlined in red on the map attached hereto as Exhibit "B" and incorporated herein by reference (the "Property Location Map").

Defendants own the real property in Wasatch County, Utah, consisting of Lot 27, Storm Haven Subdivision, Plat A, in the Town of Daniel, Wasatch County, State of Utah ("Lot 27") and approximately 1.1 acres adjoining the Ernstsen Property described in Exhibit "C" attached hereto and incorporated herein by reference ("Lafay Parcel 2"). Lot 27 is outlined in blue on the Property Location Map, and Lafay Parcel 2 is outlined in green on the Property Location Map

(together sometimes referred to herein as the "Lafay Property").

The driveway at issue in this case, approximately 141 feet long leading from Haven Estates Drive to the southeast boundary of the Ernstsen Property, has the legal description set forth in Exhibit "D-1" and is located as depicted on the survey map in Exhibit "D-2" (the "Easement Area"). Exhibits "D-1" and "D-2" are attached hereto and incorporated herein by reference.

The Prescriptive Easement

The Plaintiff has the burden to specifically identify the easement they seek. In this case, the Plaintiff has met that burden by: (A) describing in detail the historical uses of the Easement Area; and (B) proving the use of the Easement Area has been open, continuous, and adverse, under a claim of right for more than twenty years (over forty years in this case).

With regard to the nature or scope of a prescriptive easement, the Utah Supreme Court said the following in SRB Investment Co., Ltd v. Spencer 463 P.3d 654 (Utah 2020) (463 P.3d at 659):

In contrast to the broad characterization of a prescriptive easement's purpose, our case law suggests that we must define the specific nature, or scope, of the easement's historical use with particularity. This is so because "the extent of a prescriptive [right] is measured and limited by its historic[al] use during the prescriptive period."

In this case the description of the historical uses during the prescriptive period establishes the nature, or scope, of the easement's historical use with particularity.

A prescriptive easement for ingress and egress has been established in favor of Ernstsen Enterprises over and across the Easement Area for the historical uses set forth in the undisputed fact section of the Motion for Summary Judgment (the "Historical Uses"). The following are

general examples of the Historical Uses of the Easement Area by Ernstsen Enterprises, its predecessors in interest (the Ernstsen family and their estate planning trust), and its and their guests and invitees and agents of service providers of utilities, construction and repair contractors and local governments since at least the mid-1980's to the present time:

(a) Motor vehicle, recreational vehicle and pedestrian ingress and egress to and from the Ernstsen Property, to and from Haven Estates Drive through the Main Gate at the northwest end of the Easement Area, and through the Second Gate to the west of the Main Gate. Motor vehicles included in the use of the Easement Area have included, pickup trucks (including with horse and other types of trailers), SUV's (sometimes including trailers), four wheelers, motorcycles, two and four-door passenger cars, passenger vans, farm tractors and mowing equipment, utility vans and other types of trucks and other service vehicles used by utility providers and various other types of service providers and construction and repair contractors.

(b) Specific uses for which the Second Gate has been used have included ingress and egress to access the fenced field north of the Second Gate for the following: (i) lawnmowers; (ii) a tractor with mower attachments; (iii) a truck and trailer to haul in and out and mobilize sprinklers; (iv) four wheelers with a small trailer to clean debris, repair sprinklers and do general maintenance in the field; (v) holding and feeding of horses, cattle and sheep; (vi) for family gatherings the first parking lot where vehicles are lined up (especially when there are sprinklers going on other fields); (vii) depending on the assignment from the water master each year, it is sometimes the only access for a vehicle larger than a pickup truck for repairs on and services for the house (such as septic tank maintenance, roof repairs, window replacements, deck

repairs and related tree removal); and (viii) vehicles with trailers that cannot use the long, tree-lined driveway to the house and other part of the Ernstsen Property.

The following is a summary of the more detailed descriptions of the Historical Uses of the Easement Area in the undisputed fact section of the Motion for Summary Judgment:

(a) Uses related to the construction and maintenance of improvements to the Ernstsen Property, including the house, garage, barns, tree-lined lane, fencing, other trees and shrubs.

(b) Uses related to maintenance of lawns and fields on the Ernstsen Property such as watering lawns and fields, physically moving the manual sprinkler systems to needed locations, repairing parts of the sprinkling system, and mowing lawns and fields.

(c) Uses related to those who have lived in the house and/or mobile home for long periods of time on the Ernstsen Property, and who have worked as on-site residents on the maintenance and upkeep of the Ernstsen Property and improvements thereto.

(d) Uses related to visits to those who have lived in the house and/or the mobile home.

(e) Uses related to transporting, housing, feeding and caring for horses, cows, sheep, birds and chickens on the Ernstsen Property.

(f) Uses related to numerous and frequent family gatherings, many with overnight stays, including spring cleanups, reunions, family dinners, birthday celebrations, weddings, fish fries, bowling leagues, egg hunts, water parties, BBQ's, Easter Sunday Overnights, 4th of July celebrations, Labor Day activities, Thanksgiving and Christmas celebrations.

(g) Recreational uses such as boating, hunting, riding motorcycles, riding four wheelers and snowmobiling, with the Ernstsen Property as the place where boats, motorcycles, four wheelers and snowmobiles are kept, and serving as the center point for all of the activities, which went out from there to nearby lakes and other activity areas; with overnight stays on the Ernstsen Property common for those events.

(h) Uses of the Ernstsen Property as a getaway location, especially during warm weather months, only 40 minutes from Salt Lake City, for day visits, or overnight stays for weekends or longer, to enjoy the beauty and serenity of the area.

(i) Frequent small family uses for birthday parties, "every Wednesday in

summer”, dates, games and recreation, full week in June, etc.

(j) Uses for activities of church members for youth conferences, socials, winter campouts, other overnight camping.

(k) Uses for social activities with groups of co-workers of members of the Ernstsens family.

The use of the Easement Area for ingress and egress to and from the Ernstsens Property by the owners of the Ernstsens Property, the extended Ernstsens family, their guests and invitees, the providers of utility and other services, representatives of government entities, and those who have done repairs and construction on the Ernstsens Property (the “Historical Users”), has been open, continuous and adverse, under a claim of right, for more than twenty years (over forty years in this case). The Historical Uses are consistent with residential use of the Ernstsens Property.

With regard to the prescriptive easement, the Ernstsens Property is the dominant estate, and Lafay Parcel 2 is the servient estate.

The prescriptive easement is permanent and is appurtenant to the Ernstsens Property.

Clarification of the Scope of the Easement
Based on Uncontested Facts

As to Defendants’ request in their Second Claim for Relief, for what Plaintiff describes as an improper advisory opinion about potential future changes to the uses of the Easement Area, the Court instead views that request as one for a clarification regarding the scope of the easement. Such a clarification can be provided based on the uncontested facts in this case.

In SRB Investment, the Utah Supreme Court stated that the ultimate criterion in determining the scope of a prescriptive easement is to limit the burden imposed on the servient

estate to what has been imposed historically, but that Utah law allows reasonable changes to be made by both the easement holder and the owner of the servient estate so long as those changes do not materially increase the burden imposed on either party (463 P.3d at 662).

Plaintiff's Motion for Summary Judgment provides information about a pending sale of the Ernstsens Property. Defendants raised a question about whether the sale may only relate to one of the four parcels that make up the Ernstsens Property, but the Court finds at this point there is no dispute that all four parcels of the Ernstsens Property are included in the proposed sale transaction.

The Court further declines to opine on what might happen if at some point in the future, a new sales transaction contemplates the splitting the ownership of the parcels, ~~or if construction of one or more additional residences on the Ernstsens Property is proposed.~~ Those issues are not ripe for adjudication before the Court.

The Court does find that there is sufficient undisputed evidence to establish that the use of the Easement Area for access should be consistent with the one residential home now located on the Ernstsens Property.

Defendants seek some restriction on the times of the use of the Easement Area for access or the amount of access, but the Court is unaware of any such limitation made upon an easement for residential purposes. This situation is not the same as the case cited by Defendants where there was a limit of the number of cows that could cross, or the number of days in spring and fall when that could occur.

While counsel for Defendants argues that established usage was limited to holidays,

hunting trips, maintenance, church activities, etc., what is ultimately clear is that the Historical Users had use of the Easement Area for access to and from the Ernstsens Property as often as they wanted; at times as a residence and at times as a vacation home. While some of the volume of the traffic was necessarily larger around certain holidays, there is no material issue of disputed fact that access to and from this property was limited in any way. The frequency may have ebbed and flowed, but the Court finds that the Historical Users had unrestricted access to the Easement Area for access to and from the Ernstsens Property year-round, sufficient to establish the prescriptive easement for residential use.

Accordingly, the Court finds that Plaintiff is entitled to a prescriptive easement for the purpose of one residential home, at all times and dates, such that the owner of the dominant estate may have ingress and egress as necessary to reasonably enjoy their home, including their guests and invitees (for uses typical to guests and invitees such as social and family visits, holiday parties, etc.), the providers of utility and other services, representatives of government entities, and those who do repairs and maintenance on the Ernstsens Property. Basically, the allowed uses of the Easement Area include all uses that one would expect to enjoy in connection with the use of their own home.

If there are any proposed changes in the future to the use of the Easement Area by the owner of the Ernstsens Property, or the use of Lafay Parcel 2 by the owner of Lafay Parcel 2, the ability of either of those owners to make those changes will be governed by the legal principle stated in the SRB Investment opinion that, "Utah allows reasonable changes to be made by both the easement holder and the owner of the servient estate so long as it does not materially increase

the burden imposed on either party.” (463 P.3d at 662).

Fencing and Gates

In their First Claim for Relief, Defendants seek a declaratory judgment allowing the installation of fencing on Lafay Parcel 2, including gates across either end of the Easement Area.

With regard to changes in the uses of the prescriptive easement by the easement holder, and the uses of the servient estate by its owner, the Court again relies on the following statement of the Utah Supreme Court in the SRB Investment case (463 P.3d at 662):

Although the ultimate criterion in determining the scope of a prescriptive easement is to limit the burden imposed on the servient estate to what has been imposed historically, Utah allows reasonable changes to be made by both the easement holder and the owner of the servient estate so long as it does not materially increase the burden imposed on either party.

Here, the Court finds that Defendants’ installation of multiple gates that impede Plaintiff’s access to the Easement Area would materially increase the burden imposed on Plaintiff.

(a) There is no dispute that the easement has been open and freely available for the Historical Uses by the Historical Users, without impediment.

(b) In addition, it appears equally clear and undisputed to the Court that while Lafay Parcel 2 is zoned for agriculture or livestock, the entirety of Lafay Parcel 2 hasn’t been used in that manner (i.e., the need for Defendants to install fencing to accommodate livestock on the entirety of Lafay Parcel 2 is not based on the historical use of the servient estate).

(c) The proposed fencing and gates would not just require Plaintiff and the other Historical Users to open and close multiple gates to reach the Ernstsens Property and to leave the

Ernstsen Property, but they would also require them to navigate livestock and prevent the escape of livestock if Defendants put livestock on the Lafay Parcel 2, with potential additional issues of liability for failure to properly navigate livestock while passing over the Easement Area and failure to prevent the escape of livestock when the gates are open to allow ingress and egress.

(d) If Defendants can find a way to fence Lafay Parcel 2 that does not materially increase the burden on the owner of the dominant estate as the Easement Area is used for ingress and egress to and from the Ernstsen Property, this Summary Judgment should not be considered a barrier to such action. Defendants are free to fence their lot while still preserving Plaintiff's ability to use the Easement Area for ingress and egress. While the Court is not inclined to specify exactly how they can or should accomplish that, the Court does find that Defendants' plan to install multiple gates blocking Plaintiff's right of access materially increases the burden imposed on Plaintiff, solely to benefit of the servient estate.

(e) However, although the Court grants Plaintiff's Motion for Summary Judgment as to Defendants' First Claim for Relief, where Defendants seek a declaratory judgment that they should be able to install two or more gates over the Easement Area or a gate at either end of the Easement Area blocking Plaintiff's access to the Easement Area (see 13(f) below), the Court determines that it cannot, and should not, at this point simply order that no gates can ever be installed, or try to be specific about the circumstances under which they can be installed.

(i) For example, an automatic gate, which would allow access without the necessity to exit an approaching vehicle, open the gate, get back in the vehicle, drive through, exit the vehicle, close the gate, get back in the vehicle, drive 141 feet, and repeat the process,

might be an appropriate balance, although even that method doesn't address the following issues: (A) the issue of how they would make their way through while navigating livestock and keeping livestock from escaping; (B) the issue of access by guests, utility and service providers and those doing repairs and other maintenance as they visit the Ernstsens Property, who would not be able to open automatic gates without the help of someone besides themselves, and who would face the same issues regarding navigating through livestock and keeping livestock from escaping (without knowing in advance it is their responsibility to keep livestock from escaping); (C) the issue that automatic gates open and close slowly, making the control of livestock a bigger challenge; or (D) the issue of how such gates would work when snow is deep where the gates are located when closed and also where they would have to swing to open and close for ingress and egress (or to accommodate doors that slide sideways if they open that way instead of swinging open or closed). However, there is no proposal before the Court for an automatic gate system, so the Court is not in a position to determine whether an automatic gate system would work in this situation without materially increasing the burden on the owner of the easement.

(ii) For another example, as part of its Reply Memorandum in Support of its Motion for Summary Judgment, Plaintiff proposed a potential fence and gate arrangement for Lafay Parcel 2 that did not require any gates to be placed across the Easement Area. The Court makes no ruling as to the reasonableness of that proposal, but sees it as an indication that alternative approaches to the fencing and gate issues in this case are available for future consideration.

(iii) The point being that there may be ways that might be proposed in the

future that would be reasonable and perhaps acceptable to both parties such that this Court is not willing at this point to issue the blanket ruling requested by Plaintiff that “The use of the prescriptive easement has been and should remain free, open, unobstructed and unhindered.”

(f) To be clear, although the Court has ruled there is no dispute that the use of the Easement Area has been open and freely available for the Historical Uses by the Historical Users, without impediment, the Court denies Plaintiff’s Motion for Summary Judgment as to Plaintiff’s broad request that this Summary Judgment should include a provision the easement should remain free, open, unobstructed and unhindered, but the Court grants Plaintiff’s Motion for Summary Judgment as to Defendants’ First Claim for Relief where Defendants seek a declaratory judgment that they should be able to install two or more gates over the Easement Area or a gate at either end of the Easement Area blocking Plaintiff’s access to the Easement Area without some further accommodation to allow Plaintiff’s access to be reasonably unimpeded.

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(The accompanying Exhibits “A” through “D-2 are included as part of the Summary Judgment)

EXHIBITS TO SUMMARY JUDGMENT

Exhibit "A" Legal description of the Ernstsén Property

Exhibit "B" Property Location Map

Exhibit "C" Legal Description of the Lafay Property

Exhibit "D-1" Legal Description of the Easement Area

Exhibit "D-2" Survey of the Easement Area

Exhibit "A"

(Legal Description of the Ernstsens Property)

EXHIBIT "A"

Legal Description of the Ernstsens Property in Wasatch County, State of Utah

PARCEL 1:

Beginning at a point North 798.27 feet and West 1786.31 feet from the South quarter corner of Section 22, Township 4 South, Range 5 East, Salt Lake Base and Meridian; said point also being in the center of Daniel's Creek; thence North 88°38'30" West, 10.0 feet along center of said Creek; thence North 33°38'30" West 139.0 feet along center of said Creek; thence North 0°08'30" West 100.0 feet along center of said Creek; thence North 37°08'30" West 55.0 feet along center of said Creek; thence South 66°06'30" West 65.35 feet; thence North 58°58'30" West 163.0 feet; thence South 77°31'30" West 254.06 feet; thence South 38°10' East 212.53 feet; thence South 34°37'43" East, 369.53 feet; thence North 47°32'35" East, 307.95 feet to the point of beginning.

PARCEL 2:

Beginning at a point North 1058.07 feet and West 1906.77 feet from the South quarter corner of Section 22, Township 4 South, Range 5 East of the Salt Lake Meridian, said point also being in the center of Daniels Creek; thence South 66°06'30" West 65.35 feet; thence North 58°58'30" West 163.0 feet; thence South 77°31'30" West 254.06 feet; thence North 38°10' West 287.77 feet; thence North 77°19'33" East 442.02 feet to the center line of said Creek; thence along center of said Creek the following bearings and distances: South 54°05'30" East 67.28 feet; thence South 32°08'30" East 222.82 feet; thence South 12°08'30" East 100.0 feet to the point of beginning.

PARCEL 3:

Beginning at a point North 1713.82 feet and West 2447.71 feet from the South quarter corner of Section 22, Township 4 South, Range 5 East, Salt Lake Base and Meridian, said point also being in the center of Daniels Creek; thence along the center of said Creek the following bearings and distances: South 67°27'30" East 139.50 feet; thence South 29°45'30" East 232.95 feet; thence South 54°05'30" East 126.43 feet; thence South 77°19'33" West 442.02 feet; thence West 93.0 feet; thence North 85.0 feet; thence North 47°00' West 285.83 feet; thence North 69°11'08" East 413.41 feet to the point of beginning.

PARCEL 4:

Beginning at a point located 2447.71 feet West and 1713.82 feet North from the South quarter corner of Section 22, Township 4 South, Range 5 East, Salt Lake Base and Meridian and running thence North 09°39'30" West 196.95 feet along the center of Daniels Creek; thence North 60°46'30" West 204.30 feet along said Creek; thence North 15°10'30" West 106.77 feet along said creek; thence South 56°25'01" West 421.95 feet; thence South 51°39'26" East 233.55 feet; thence South 34°03'05" East 174.97 feet; thence North 69°11'08" East 372.63 feet to the point of beginning.

Together with that certain Right of Way reserved and held by Grantor in and over parts of Lots 1

and 2, Storm Haven Subdivision, Plat "C", as recorded in the office of the Wasatch County Recorder, more particularly described as follows:

Description A:

Beginning at the Western most common corner of said Lots 1 and 2, such point also being on the center line of Daniel's Creek, thence North $15^{\circ}10'30''$ West 30 feet; thence North $62^{\circ}18'55''$ East parallel to the East line of said Lot 1, 85 feet; thence in a Southeasterly direction 42.43 feet, more or less, to a point $62^{\circ}18'55''$ East 125 feet to a point of beginning; thence Southwesterly along the common border of said Lots 1 and 2, 125 feet, more or less, to the point of beginning; and

Description B:

Beginning at the Western most common corner of said Lots 1 and 2, and running thence North $62^{\circ}18'55''$ East along the Northerly line of said Lot 2, 90 feet, more or less, to the Southeasterly line of a road as shown on the plat of said Storm Haven Plat C, thence along said road South $34^{\circ}01'$ East 15 feet; thence South $62^{\circ}18'55''$ West 100 feet, more or less to the West line of said Lot 2, thence North $15^{\circ}10'30''$ West 15 feet, more or less to the place of beginning.

Exhibit “B”
(Property Location Map)

(See separate Exhibit “B” pdf file submitted herewith)

Washich County

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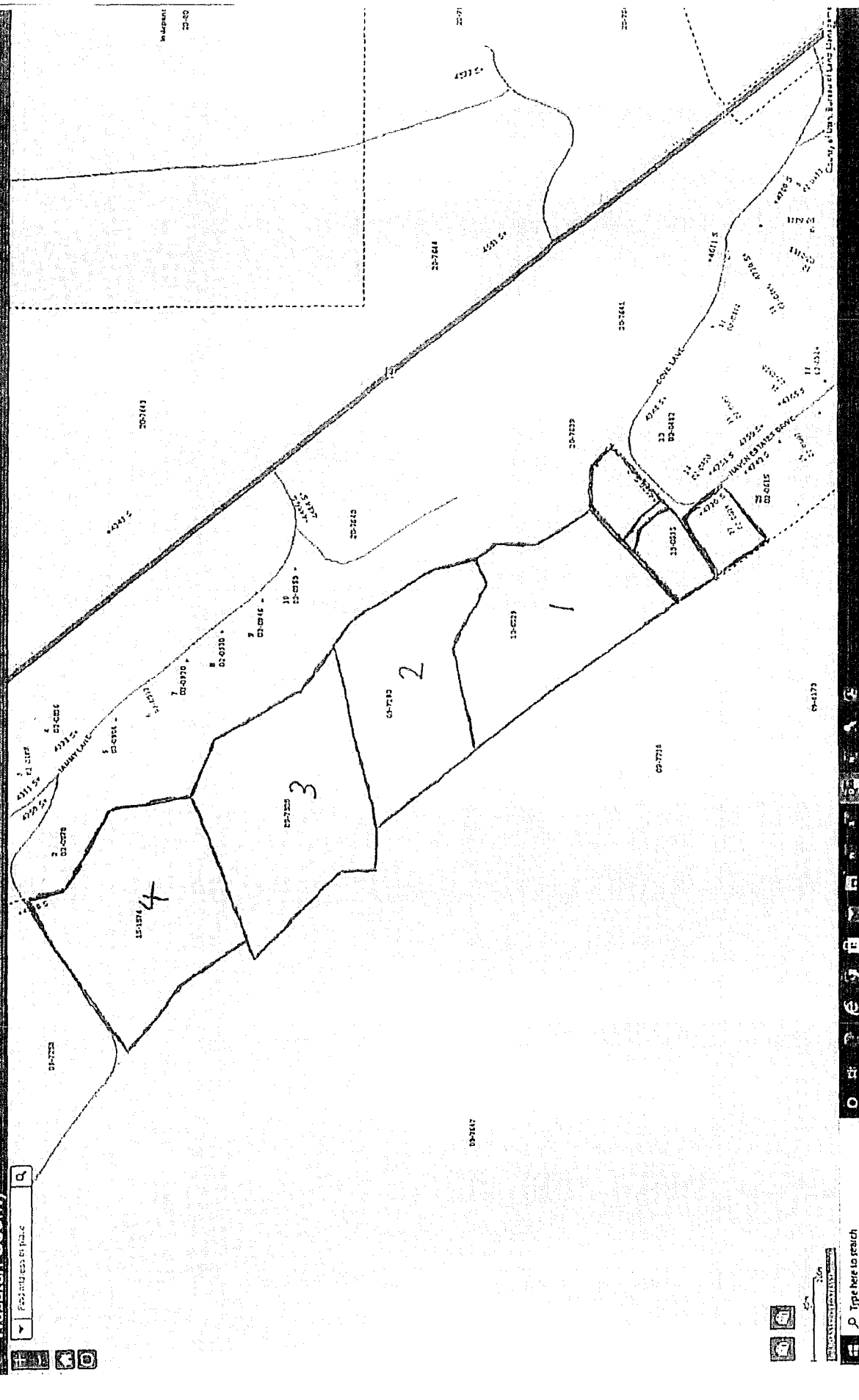


Exhibit “C”
**(Legal Description of the
Lafay Property)**

EXHIBIT "C"

Legal Description of the Lafay Property in Wasatch County, State of Utah

PARCEL 1:

LOT 27, STORM HAVEN SUBDIVISION, PLAT "A", ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE WASATCH COUNTY RECORDER'S OFFICE.

PARCEL 2:

COMMENCING AT THE MOST WESTERLY CORNER OF LOT 27, STORM HAVEN SUBDIVISION, PLAT A, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE AND OF RECORD IN THE OFFICE OF THE WASATCH COUNTY RECORDER, SAID POINT BEING NORTH 505.91 FEET AND WEST 1956.58 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 33°58'43" WEST 101.87 FEET; THENCE NORTH 47°32'35" EAST 307.95 FEET; THENCE SOUTH 88°38'30" EAST 90 FEET; THENCE SOUTH 48°00'29" EAST 69.16 FEET TO SAID SUBDIVISION; THENCE SOUTH 47°15' WEST ALONG SAID SUBDIVISION 239.77 FEET; THENCE SOUTH 59°05' WEST ALONG SAID SUBDIVISION 158.03 FEET TO THE POINT OF BEGINNING.

Exhibit “D-1”
**(Legal Description of the
Easement Area)**

EXHIBIT "D-1"

Legal description of the Easement Area

Beginning at the at a point North 89°56'25" East 750.80 feet and South 4,601.54 feet from the Northwest Corner of Section 22, Township 4 South, Range 4 East of the Salt Lake Base and Meridian, and running

thence North 46°54'19" East 37.24 feet;

thence Easterly 11.87 feet along the arc of a 24.84 foot radius curve to the left (center bears North 30°58'15" East and the chord bears South 72°42'55" East 11.76 feet with a central angle of 27°22'20");

thence Easterly 14.48 feet along the arc of a 212.91 foot radius curve to the right (center bears South 03°35'55" West and the chord bears South 84°27'09" East 14.48 feet with a central angle of 03°53'53");

thence Easterly 23.24 feet along the arc of a 79.05 foot radius curve to the right (center bears South 07°29'48" West and the chord bears South 74°04'57" East 23.15 feet with a central angle of 16°50'31");

thence Southeasterly 34.11 feet along the arc of a 112.47 foot radius curve to the right (center bears South 24°20'19" West and the chord bears South 56°58'21" East 33.98 feet with a central angle of 17°22'40");

thence South 49°46'35" East 29.46 feet;

thence Easterly 38.69 feet along the arc of a 41.94 foot radius curve to the left (center bears North 42°53'43" East and the chord bears South 73°32'03" East 37.33 feet with a central angle of 52°51'32") to the North line of Haven Estates Road;

thence South 47°23'53" West 46.67 feet along the North line of Haven Estates Road

thence North 10°30'13" West 9.70 feet;

thence Northwesterly 30.68 feet along the arc of a 66.13 foot radius curve to the left (center bears South 73°05'35" West and the chord bears North 30°11'52" West 30.41 feet with a central angle of 26°34'54");

thence North 52°31'02" West 22.76 feet;

thence Northwesterly 42.80 feet along the arc of a 63.53 foot radius curve to the left (center bears South 44°21'46" West and the chord bears North 64°56'14" West 42.00 feet with a central angle of 38°36'00");

thence Westerly 10.30 feet along the arc of a 34.16 foot radius curve to the left (center bears South 05°45'46" West and the chord bears South 87°07'25" West 10.26 feet with a central angle of 17°16'41");

thence Southwesterly 10.02 feet along the arc of a 17.70 foot radius curve to the left (center bears South 11°30'55" East and the chord bears South 62°16'15" West 9.88 feet with a central angle of 32°25'39");

thence Westerly 30.30 feet along the arc of a 25.83 foot radius curve to the right (center bears North 35°42'43" West and the chord bears South 87°53'15" West 28.59 feet with a central angle of 67°11'56");

thence Northwesterly 7.87 feet along the arc of a 483.08 feet radius curve to the right (center bears North 31°29'13" East and the chord bears North 58°02'47" West 7.87 feet with a central angle of 00°56'00") to the point of beginning.

Contains 3,235 square feet or 0.074 acres.

Exhibit “D-2”
(Survey of the Easement Area)

(See separate Exhibit “D-2” pdf file submitted herewith)

