



BOARD OF ADJUSTMENT

MEETING AGENDA

**Thursday, September 11, 2025
4:30 p.m.**

- **Pledge of Allegiance**
- **Roll Call**

Regular Agenda Items

1. **Minutes: January 23, 2025, March 13, 2025, and March 27, 2025**
2. **BOA2025-03:** Consideration of an appeal on a decision made by the Ogden Valley Planning Commission in a public meeting held on April 25, 2023 to approve the Osprey Ranch Phase 2 subdivision without a road easement between lots 43 and 46 and subject to the county engineer deciding if a connector road in this location is feasible.
Staff Presenter: Felix Lleverino

Adjourn

The Board of Adjustments meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8761

January 23, 2025

Minutes of the Board of Adjustments meeting of January 23, 2025, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm.

Members Present **Rex Mumford, Chair**
 Marshall McGonegal, Vice Chair
 Ben Peterson
 Neal Barker, Alternate

Staff Present: Tammy Aydelotte, Planner; Rick Grover, Planning Director; Tiffany Snider, Secretary

- **Roll Call**
- **Pledge of Allegiance**

Acting Chair Laura Warburton was not present, and Rex Mumford moved to item 4 on the agenda to give the Board the ability to vote for a new Chair and Vice Chair for 2025.

4. Voting for new Chair and Vice Chair for the year 2025

Ben Peterson moved to elect Rex Mumford as Chair of the Board of Adjustments for 2025. Neal Barker seconded the motion. Board Members Barker, Peterson, McGonegal, and Mumford voted in favor. There were no opposing votes, and the motion carried.

Neal Barker moved to elect Marshall McGonegal as Vice Chair. Ben Peterson seconded the motion. Board Members Barker, Peterson, McGonegal, and Mumford voted in favor. There were no opposing votes, and the motion carried.

1. Minutes: October 24, 2024. Approved as presented

2. BOA 2024-08: Request for a 7' variance to the minimum 20' side setback standard in the FV-3 zone. Staff Presenter: Tammy Aydelotte.

Planner Aydelotte explained the applicant is requesting a 5' 8" variance to the minimum 20-foot side yard setback required in the FV-3 Zone, leaving a 14'4" foot setback from the east side lot line. The applicant feels that a variance is necessary to build their desired home. The applicant explains that the current zoning setbacks, and the seasonal stream that runs through a portion of the lot, make it difficult to construct a single-level, ADA compliant home. The applicant's narrative is included as Exhibit B to the staff report and application. The applicant is also requesting a 25-foot variance to the 50' stream corridor setback. The County Engineer, who determines the high-water mark of these stream corridors, has outlined suggestions for the applicant to help mitigate concerns from the County Engineer regarding this variance request. These include locating the home right to the front setback line (30'), to avoid additional encroachment into the stream setback, a front-facing garage, to avoid having a portion of the driveway encroach into the stream setback, as well as fill and retaining walls. If the applicant follows suggestions from County Engineering, then there are no concerns from the County Engineer. The applicant has provided a site plan to help visualize applicable setbacks and encumbrances to the property. The second page of Exhibit B shows encroachment of the proposed building, by, side setback of 8 feet, side adjacent to a street of 20 feet, and a front setback of 20 feet. It should be noted that on the first page of Exhibit B, the front setback should be shown at 25 feet, further reducing the area within the triangle. Pages 3 and 5 of Exhibit B show where a 1050 square foot house could be located on the lot, should the BOA grant the variance. Ms. Aydelotte offered a summary of the duties and powers of the Board of Adjustment and used the aid of a PowerPoint presentation to review staff's analysis of the application:

1. Literal enforcement would prevent the property owner from enjoying a substantial property right and developing this parcel in accordance with the Ogden Valley General Plan.
2. Special circumstances surrounding this lot of record include a stream runoff area that cuts across the lot. The location of this stream, the configuration of this lot, and the setbacks standards for the FV-3 zone create a unique challenge in developing this lot.
3. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that includes construction of a home that meets unique needs.

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4. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will allow the construction of a home that is coherent to the neighborhood and will not be a detriment to adjacent property owners.
5. The applicant is exhausting their remedies, under the land use code, for the potential of a lesser setback and is requesting that substantial justice be done, considering the unique conditions of the lot.

Board Member Barker inquired as to any liability the County may have if the variance is approved, and the property owner suffers damages from a flood in the future. Planning Director Grover indicated the County would be indemnified from such liability as long as the appropriate review agencies have considered the application and offered their support for the variance. Ms. Aydelotte indicated County Planning staff has worked closely with engineering to evaluate foundation issues, appropriate lot grading, and other mitigations to prevent future flooding issues.

High level discussion among the Board and Planning staff centered on the seasonality of the stream near the subject property, peak flows, and the appropriate setback from the stream for the building lot. Ms. Aydelotte indicated that engineering has indicated they would like the eastern boundary of the lot to be at least 10 feet from the stream. Engineering's job is to consider the worst-case scenario for the subject property and then work backward from that scenario.

Chair Mumford invited input from the applicant.

Robert Heslop, 3145 N. Big Piney Drive, Eden, stated the subject property is at 4116 E. 4100 N., Liberty. He expressed a willingness to answer any questions the Board may have that were not answered by Ms. Aydelotte's presentation.

Board Member Barker asked Mr. Heslop to identify the location of the septic system, which must have 100 feet of clearance from the stream. Mr. Heslop stated the septic system has been approved by the Health Department and is located on the south side of the property closest to the street. He added there is a culvert for the stream that goes under 4100 North.

Board Member Peterson asked Mr. Heslop his thoughts about moving his home further to the east to meet setback requirements. Mr. Heslop stated he is fine with that way forward; when he designed the lot and home, he was trying to meet all setbacks as close as possible without going too far to one side or the other.

Vice Chair McGonegal referenced the design of the home and asked if the 'jog' of the roofline is an encroachment into the easement, to which Mr. Hunter answered yes. That part of the design is an attempt to break up the roof line for aesthetic reasons; the 'jog' extends 6.5 feet into the easement and the total square footage of the home is 4,500 square feet. This includes the garage space, not just living space. This led to discussion regarding different design options that could help to reduce or eliminate the encroachment into the easement.

Board Member Barker asked if it would be an option to reroute the seasonal stream or dig deeper to help to mitigate flooding risks. Ms. Aydelotte stated that is typically something that would need approval from the Army Corps of Engineers, but she deferred to the applicant to answer the question. Mr. Heslop stated it was his original plan to move the stream to the west, but after discussing that concept with County Engineering, he learned of the regulations and permitting standards from the Army Corps of Engineers. He chose to pursue a variance before attempting to work with Army Corps of Engineers to reroute the stream.

Board Member Peterson asked Mr. Heslop if he has spoken with the adjacent property owner to see if he would be willing to sell as small sliver of his property that would help him to move his building to the east and comply with all required setbacks. Mr. Heslop stated he has approached his neighbor and was told that their land is tied up in a dispute with the trust that manages it, and it may be a few years before they are able to sell any portion of the land.

The Board continued to review the site plan for the property to consider other modifications that could be made to the lot layout and building design to help eliminate the encroachment; the Vice Chair McGonegal asked Mr. Heslop when he purchased the lot and if he was aware of the presence of the stream and the limitations that may place on the building envelope of the property. Mr. Heslop stated he purchased the lot in February of 2024 and was aware of the stream, but was under the impression that it could be rerouted to the west. He has completed all the paperwork to move the stream to the west and that was when he was contacted by County Engineering about other options for addressing the issue.

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Chair Mumford facilitated discussion among the Board regarding the powers and duties they have when considering an application for a variation. He stated he cannot make a motion given his role as the Chair, but he would be more comfortable moving the structure further to the east than he would be approving the encroachment into the stream corridor setback. This led to high level discussion among the Board, Planning staff, and Mr. Heslop regarding the options available to him, after which Chair Mumford called for a motion.

Vice Chair McGonegal moved to deny application BOA 2024-08, request for a 7' variance to the minimum 20' side setback standard in the FV-3 zone, based upon the following findings:

- Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
- The variance would be too great a deviation from the General Plan and would be contrary to the public interest.
- The hardship is self-imposed.

Board Member Peterson seconded the motion; voting aye: Board Members Barker, Peterson, Vice Chair McGonegal, and Chair Rex Mumford. Motion carried (4-0)

3. BOA 2024-05: Consideration and action on a variance request from street and access easement width standards, located at approximately 4680 E 2650 N, Eden, UT, 84310. Staff Presenter: Tammy Aydelotte.

Planner Aydelotte reviewed the development history for the subject property and explained the applicant is requesting the variance to allow for possible approval of a three-lot subdivision on the subject parcel. The parcel is accessed off of Clark Land (2650 North Street), a dedicated public right-of-way. 2650 North Street is a 60-foot-wide right-of-way. However, as this public street approaches the applicant's property, the dedicated width changes. The developer of the parcel directly east of the subject parcel did not own to the centerline of the roadway. As such, the County can only ask for dedication of property that is owned by the developer. The right-of-way width as it approaches the subject parcel varies from 16' to 19.68' wide. This width does not meet the minimum width standard for access to the parcel. Per Weber County LUC 106-2-2.010 Public Street Requirement "The standard method of ensuring ease of access, efficient mobility, reduced response time for first responders, effective emergency management, strong neighborhood relationships through interconnectivity, and a more equitable means of access to community opportunities, is by requiring Public Streets and Public Street connectivity at the time new development is proposed. As such, the default requirement for each subdivision Lot is to provide Lot Frontage on a street dedicated to the County as a public right-of-way and thoroughfare.

1. Public Street dedication. Each street in a subdivision shall be dedicated to the county as a Public Street, except when a Private Street is allowed or required as provided in this Section 106-2-2.
2. Standard street cross-sections. All proposed Public Streets shall conform to the county street cross-section standards, unless explicitly specified otherwise. "

A typical right-of-way width for a public roadway required by Weber County is between 60 feet and 66 feet. Applicant cannot meet this requirement. Weber County LUC 106-2-2.020 Private Street Option. In some cases, the County may find benefit from a street being temporarily or permanently private. However, an applicant is not entitled to make a street private. The Land Use Authority has full discretion, subject to regulations in the ordinance, to allow a street to be private. According to the street standards enforced by Weber County Engineering, 50' is the narrowest width permitted by the County Engineer, for a potential private right-of-way. This standard is below the norm typically requested by County Engineering. However, the applicant cannot meet this requirement.

Weber County LUC 106-2-2.030 Shared Private Lane Option This option is only permitted in areas where no public streets are planned. While there is no connection shown in the Ogden Valley General Plan, development is ongoing to the west and will necessitate connectivity to 2650 North Street. However, the minimum standards for a shared private lane cannot be met. The following standards apply to a shared private lane, Weber County LUC 106-2-2.030 states:

- (a) Shared private lane design, configuration, and construction requirements. A shared private lane shall be:
 1. Design. Designed and constructed to have a minimum right-of-way width of 24 feet, with a minimum improved surface width of 20 feet. A greater right-of-way width may be required by the County Engineer for a cross-slope easement.
 2. Configuration. Configured and constructed so that any curve will safely facilitate the turning radius and weight of the Fire Authority's largest fire apparatus."

Ms. Aydelotte offered a summary of the duties and powers of the Board of Adjustment and used the aid of a PowerPoint presentation to

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review staff's analysis of the application:

- (b) Literal enforcement of the ordinance would prevent a subdivision going in at this time, until the required roadway width can be secured. This is not a variance to setbacks or the stream corridor setback standards, this is a request to bypass County standards related to safe access to property.
- (c) This may fall under a self-imposed hardship, as the current owner divided their land in such a way as to limit access to their parcel.
- (d) County staff have encouraged the applicant to work with adjacent landowners in order to secure the required access for a subdivision. As such, the property right sought by the applicant may not necessarily be enjoyed by the property owner at this time, unless the Board finds special circumstances that would allow them to grant a variance to these street standards.
- (e) Approval of this variance request may compromise safety standards, unless a solution can be reached by the applicant and the County to mitigate any detriment."

Ms. Aydelotte fielded questions from the Board regarding the characteristics and conditions of the subject property as well as future plans for the surrounding properties and general vicinity, and the specific actions that led to the creation of the hardship on the property.

The applicant was not physically, and the Board and Planning staff discussed whether to give him the opportunity to participate in the discussion of his application via Zoom. Chair Mumford offered the applicant the opportunity to provide input. Kody Holker, 11148 Zealand Avenue North, Chandler Arizona, stated he would have made an effort to attend the meeting in person but was told he could participate virtually. He stated he appreciates Ms. Aydelotte's recital of the facts but wished to offer a few clarifications regarding the situation. He stated he was the individual who recorded the development agreement that regulates his property; this was arrived at through negotiations with the Planning staff and was recorded with the County Recorder's Office as a matter of public record. In working with Planning staff, it was of paramount importance to them to keep Clark Lane on the same trajectory it was on; he could have dedicated a larger public easement greater than 16-feet and he takes issue with the conclusion that the hardship is self-imposed because that implies he has the ability to dictate to County engineers the trajectory of County roads. He was not certain this was the proper venue for his application because he is not asking for a variance, but is asking for the County to honor the development agreement that they required in order to allow the rezone and the development. The reason the public access easement is only 16 feet is that is the width that is required to keep Clark Lane on the same trajectory and the language in the development agreement reads as such. Every measurement was dictated to him by the County and County staff indicated to him that a public access was adequate for accessing his property. He would not have done something that landlocked this property and would have challenged the County's position in the past if he had any reason to believe he could not rely upon their representations. The County should be required to appear before a judge in a court of law and explain why they do not want to honor the agreement they entered into. The decision at this time is if the County is willing to honor the agreement it made. He then referenced the ordinance that gives the Board of Adjustment the ability to decide any road width they feel is adequate given any special circumstances that may exist. The special circumstances that exist in this situation is that the 16-foot width is what the County asked for in the beginning of this process. All parties were in agreement that the width was sufficient, so he was surprised to hear objections from the County when he began working on his development application. He stated it is not a good faith argument to indicate that this is a condition that he created and imposed on himself. He is not asking for a variance on his property, but that the Board of Adjustment find that the access is adequate to access his property. He discussed the private road allowances in the County's ordinance and indicated it is silent on the exact width of an access; this is intentional because the writers of that ordinance were wise enough to know that under certain circumstances, a decision should be arrived at that is in the best interest of all parties. He concluded by emphasizing that his request is that the County honor the development agreement is entered into, which dictates the establishment of the public access.

Chair Mumford explained the role of the Board of Adjustment and identified the specifics of the application that is before the Board this evening. Ms. Aydelotte added that the ordinance that County Planning staff has relied upon when considering Mr. Holker's application was adopted in 2022 and it replaced the access exception Mr. Holker has referenced. The access exception allowed for access widths to be as narrow as 16 feet, so it is likely that at the time Mr. Holker was working on the development agreement, those standards were in place. However, the ordinance has changed since that time. Chair Mumford clarified that as ordinances change, they take precedence over ordinances that were previously in place. Ms. Aydelotte stated that is the case unless there is a development agreement for a specific parcel that memorializes the ordinances that were in place at the time the agreement was executed. Planning Director Grover asked if the subject property was part of the development agreement referenced by Mr. Holker, to which Ms. Aydelotte answered no. Chair Mumford stated that given the subject property was not part of the development

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agreement, the property would need to comply with the current ordinances, which require a 24-foot public access. Mr. Holker stated he is not asking for a variance for his property; once the road hits his parcel, he is willing to widen the access to 24 feet, but he is asking for consideration of maintenance of the public right of way that was created as a result of the development agreement. He added he has spoken with the Fire Marshall regarding his position on the matter and was told that he misunderstood the specifics of the application; he hoped that the Fire Marshall has spoken with Ms. Aydelotte because he does not see a public safety issue with his request. The only harm that could arise would be due to denial of his application. He noted the bridge for Clark Lane is not the bridge he is building and it will not cross his land. The current bridge from the landowner to the south would be located where the Clark Lane bridge would go. He stated that he is basically asking for a driveway to one to three homes, with a bridge that complies with County standards. The main question today is if the Board will allow entry onto his property using the public access of record, which is only 16 feet. He was encouraged to talk to his neighbors about his request, which he did, but even if the landowner of the land directly north of the public access were willing to grant him the ability to widen the road eight feet into his property, that would infringe upon the existing development agreement and the two parties are not able to unilaterally alter the development agreement. It would also change the trajectory of Clark Lane, which is contrary to the development agreement.

Chair Mumford facilitated discussion among the Board regarding their powers and duties regarding the application before them; Mr. Grover added that the application would need to meet all criteria offered by Ms. Aydelotte in order for the variance to be granted. The Board discussed with staff the intent of the original development agreement and the intended purpose of the 16-foot access.

Vice Chair McGonegal addressed staff; he stated it is his understanding the property was purchased by the applicant in 2019 and if he had developed the subdivision at that time, he would have been granted access with the 16-foot access width. Ms. Aydelotte stated that is likely.

Board Member Barker stated the access to his home is about 19 feet wide and it is a 'nightmare'; the road is not wide enough and there have been instances of vehicles breaking down and stopping all traffic in both directions. He stated he sees Mr. Holker's point about the harm that will be done to him if the application is denied, but he can also see the potential for future harm to the residents who will live on the lots that Mr. Holker plans to develop is the access to their property is only 16 feet.

Chair Mumford again attempted to guide the Board in their decision-making process by reviewing the criteria that must be met in order for the variance to be granted.

Board Member Peterson moved to deny application BOA2024-05, variance request from street and access easement width standards, located at approximately 4680 E. 2650 N., Eden, UT, based upon the following findings:

- The hardship could be considered self-imposed because the applicant did have the opportunity to develop the land previous to 2022 when the ordinance was changed to require a 24-foot access.

Vice Chair McGonegal seconded the motion. voting aye: Board Members Barker, Peterson, Vice Chair McGonegal, and Chair Rex Mumford. Motion carried (4-0).

5. Rules of Order

Planning Director Grover informed the Board that their Rules of Order have been approved by the Legislative Body for the County.

The meeting adjourned at 6:01 p.m.

**Respectfully Submitted,
Cassie Brown**

March 13, 2025

Minutes of the Board of Adjustments meeting of March 13, 2025, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm.

Members Present **Marshall McGonegal, Acting Chair**
 Laura Warburton
 Ben Peterson

Staff Present: Rick Grover, Planning Director; Felix Lleverino, Planner; Lauren Thomas, Legal Counsel; Tiffany Snider, Secretary

- **Roll Call**
- **Pledge of Allegiance**

Chair Rex Mumford moved to item 4 on the agenda to give the Board the ability to vote for a new Chair and Vice Chair for 2025.

1. BOA 2025-01: Consideration and action on a request for a variance to the minimum lot area of the Agricultural Valley (AV-3) zone. This would allow for the owner to subdivide Lot 2 of the Gillespie Subdivision into two building lots. Staff Presenter: Felix Lleverino

Planner Lleverino explained the applicant is requesting variances to the minimum area requirements of the AV-3 Zone. This variance would allow for the owner to subdivide lot 2 of the Gillespie Subdivision through the county subdivision process, thereby creating two building lots that would possess all of the development rights of the Agricultural Valley AV-3 zone code. The current acreage of lot 2 is 5.866 or 255,530 SF. The square foot area of 3 acres amounts to 130,680. This request of the board is for a 5,830 SF variance. The applicant has provided a detailed narrative with exhibits to help inform the board's decision. Mr. Lleverino offered a summary of the duties and powers of the Board of Adjustment and stated that for a variance to be granted, it must be shown that all of the following criteria have been met:

- a. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
 1. In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 2. In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
 1. In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.
- c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
- d. The variance will not substantially affect the general plan and will not be contrary to the public interest.
- e. The spirit of the land use ordinance is observed and substantial justice is done.

Mr. Lleverino then noted the following list are points taken by staff from the applicant's narrative:

1. The applicant's narrative states that literal enforcement of the 3-acre minimum should be varied because the owner contributed, for free, an easement for an underground storm water system.
2. The applicant's narrative does not provide details specifying circumstances that apply to this lot that do not generally apply to other properties in the same zone.
3. The applicant's narrative does not provide details arguing that granting a variance is essential to enjoy a substantial property right possessed by other properties in the same zone.
4. The applicant's narrative does not include statements regarding the general plan, however, the owner's narrative states that an additional building lot would add to the property tax revenue, thereby aligning with the public interest.
5. The board may find that the spirit of the land use ordinance is observed and substantial justice is done because approving this

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variance with such a thin margin would not appear to adversely affect the community, or impinge upon the easement or setbacks.

Acting Chair McGonegal invited input from the applicant.

Mike Gillespie, 2300 N. 5688 E., Eden, stated he is not here for the same reasons that most applicants ask for a variance; he does not want to build on the subject property at this time, nor further subdivide it, but he would like to have a variance in hand in the event he decides to develop or sell the property in the future. If the variance were approved, it would increase the value of the property and he could even borrow against it, if necessary, and he could secure more money if it were considered a three-acre building lot. He noted the only hardship is that the property has little to no value because he can only grow hay on it at this time. He then reviewed the narrative he provided to Planning staff and oriented the Board to the location of an additional property that he owns nearby; if that property were added to the subject property, he would have 5.93 acres in total and he is only asking for a variance based on .07 acres of ground and that is such a small piece of property that would not have a significant impact on the total acreage. He stated he sold some of his property to his neighbor in the past and he understood he would be left with six acres of ground, but due to road dedications and easements, the size of his property was reduced by .07 acres. He stated his request will not impact any other property owner, nor the environment and he asked that the Board consider his request favorably.

Board Member Peterson stated that the Board must find that all criteria are present in order to grant the variance; the only item that he is struggling to find is an actual hardship that would be caused by literal enforcement of the County's LUC. Mr. Gillespie stated that the hardship is that he is being limited in maximizing the value of his property due to enforcement of the acreage requirements. The property is devalued compared to what it would be if it were a buildable property. He stated he feels this is such an easy variance to approve.

Board Member Warburton stated she understands Mr. Gillespie's concerns and his position; she questioned him about the easements that essentially reduced the buildable acreage of his property. Mr. Gillespie stated that he did not understand that granting the easement would reduce his buildable area. Board Member Warburton asked Planning staff if the easement was part of a 'taking action' that Mr. Gillespie did not have a choice to grant. Planning Director Grover stated that he does not know the history of that easement. Board Member Warburton stated that having that information would be helpful in the decision-making process regarding this application. She then noted that regardless of the size of the easement, the County must consider its impact on a given property; a small easement is the same as a large easement for the purposes of LUC enforcement and the Board should not consider this situation to be different just because the property is .07 acres shy of meeting acreage requirements. Mr. Gillespie stated that in his opinion, not all easements are the same; the larger they get, the bigger the impact they have on a property. Board Member Warburton agreed, but noted the rules are the same for all easements regardless of their size. She noted that every decision the Board makes must be legal and if any decision is found to be unsupported by law, the Board can be held accountable personally and she is not willing to take that risk.

Mr. Lleverino reviewed the dedication plat for the subject property and facilitated the Board's review of the conditions impacting the property as well as the condition of the surrounding property; he also reviewed the history of the ownership of the property and the points in time that certain portions of the property were dedicated for public improvements. Board Member Warburton stated she may not have read the application and Mr. Gillespie's narrative correctly; she asked Mr. Lleverino to again explain the purpose of the request. Mr. Lleverino stated that Mr. Gillespie does not plan to subdivide the property at this point in time, but he would like the variance in hand so that at the time that he is ready to subdivide the property, he can legally create two lots from the 5.886 acres. Board Member Warburton stated the Board would essentially be granting approval for two lots that are each less than three acres in size. Mr. Lleverino stated that is correct.

Mr. Grover drew the Board's attention to a small piece of property on 2300 North, which is owned by Mr. Gillespie; he asked if the property was part of lot two at one point in time. Mr. Lleverino answered no. Mr. Grover asked if the subject property would be increased to a size that satisfies the minimum acreage requirements if the two properties were combined, to which Mr. Lleverino answered no, but it would get the property size close to the minimum acreage. Mr. Grover advised the Board to ask why the smaller piece of property was separated from the larger piece.

Acting Chair Warburton asked Mr. Gillespie to approach. Mr. Gillespie referenced Mr. Grover's questions about his smaller parcel of property, which is .113 acres in size; if it were added to his larger parcel, he would still be .07 acres shy of the minimum requirement. He added that it is not marketable, but he would be willing to combine it with the larger parcel. He then stated that he understands

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that easements do not necessarily subtract from his property, but the road dedication that occurred in 2005, when he created lots one and two, did reduce the size of the property. He did not understand that process when he subdivided and did not know that his property size would be reduced. He feels this was no fault of his own and is the basis for the variance request.

Board Member Warburton presented a hypothetical scenario under which Mr. Gillespie had not performed a previous subdivision of his property; she asked if Mr. Gillespie were pursuing a subdivision at this time with exactly six acres of property, if the subdivision into two lots would be granted with the understanding that the size of the two lots would be reduced due to the road dedication. Mr. Grover stated that once the road dedication occurs, the remaining acreage is considered for the subdivision; each subdivision in Weber County must have certain access, which comes by way of public or private roads. For Mr. Gillespie's properties, there is a road dedication for lot one, and lot two has two frontages. The remaining acreage is what is left to determine lot sizes. In this specific zone, the lot area requirement is three acres per lot. Board Member Warburton stated that means that when the road dedication occurred, the total area was reduced, and Mr. Gillespie no longer meets the acreage requirement. Mr. Grover stated that is correct; he added that any variance granted by the Board of Adjustments is only valid for 18 months; if Mr. Gillespie does not proceed with subdivision or the sale of his property in that time, the variance will expire. Additionally, at the end of this year, Mr. Gillespie's property will be incorporated into the new city that was created in the Ogden Valley and that entity may have different acreage requirements for subdivision in this area.

The Board and staff engaged in high-level discussions regarding the options available to them responsive to the application; this included an option to grant conditional approval of the variance. Acting Chair McGonegal reviewed the criteria that must be met in order for the variance to be granted; he feels the spirit of the land use ordinance is observed and substantial justice done by approving the variance. Board Member Warburton noted that a counterpoint to that would be that there have been public concerns in the Valley in recent months regarding density and granting this variance would essentially increase the density of the area. Acting Chair McGonegal then stated that it is his opinion that the variance will not substantially affect the General Plan and will not be contrary to the public interest. Board member Warburton agreed and stated that if that were the case, there would be members of the public present to oppose the variance. Acting Chair McGonegal then stated that granting variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. Board Member Warburton agreed. Acting Chair McGonegal cited criteria 'b' and indicated this criterion is a bit more difficult to determine; he is not sure there are special circumstances attached to the property that do not generally apply to other properties in the same zone. Board Member Warburton agreed and noted the Board would be setting a precedent by approving the variance given that fact. Legal Counsel Thomas noted that she is not sure a precedent would be set; each variance is unique, and each should be considered on its own merits without consideration of previous variance actions. Acting Chair McGonegal stated that in determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of and deprive the property of privileges granted to other properties in the same zone. Board Member Warburton stated that she does believe there will be a hardship and that it was not created by the applicant's actions. Vice Chair McGonegal then moved to the final criterion, which is that literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code. Legal Counsel Thomas stated that the most important distinction to make is whether the hardship is self-imposed and/or if it is an economic hardship. An economic hardship should not be considered as a reason to grant the variance. Board Member Warburton stated that she does not think that the applicant brought this situation on to himself and that the variance he is requesting is so minor in nature that it will not create a situation where the subdivision of the property into two lots will seem out of place when compared to other properties in the same zone.

Board Member Warburton moved to approve application BOA 2025-01, variance to the minimum lot area of the Agricultural Valley (AV-3) zone. This would allow for the owner to subdivide Lot 2 of the Gillespie Subdivision into two building lots, based upon the following findings:

- Granting a variance of 5,830 feet will increase the total property size to six acres.
- All criteria for granting a variance are present for the subject property.

Board Member Peterson seconded the motion; voting aye: Board Members Peterson, Warburton, and Acting Chair McGonegal. Motion carried (3-0)

Mr. Gillespie stated that he did not understand that his variance will expire in 18 months. Mr. Grover advised Mr. Gillespie to meet with Mr. Lleverino to understand the County's ordinance regarding the validity of variances. Mr. Gillespie stated that he would have liked to know that before he paid \$600 for his variance application. Mr. Gillespie stated that he does not understand the basis of the policy behind the 18-month time frame; this led to high-level discussion among the group regarding legislative decisions that result in these types of policies.

March 13, 2025

The meeting adjourned at 5:29 p.m.

**Respectfully Submitted,
Cassie Brown**

March 27, 2025

Minutes of the Board of Adjustments meeting of March 27, 2025, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm.

Members Present Rex Mumford, Chair
Marshall McGonegal, Vice Chair
Neal Barker

Staff Present: Charlie Ewert, Principal Planner; Tammy Aydelotte, Planner; Lauren Thomas, Legal Counsel; Tiffany Snider, Secretary; Gary Myers, County Engineer.

- Roll Call
- Pledge of Allegiance

1. BOA 2024-08: Consideration and action on a request for a 15-foot variance to the minimum 50-foot stream corridor setback on the west side of the proposed building site and a 10-foot variance to the minimum 20-foot side yard setback to the east of the proposed building site. This property is a lot of record located in the FV-3 zone, located at 4116 East, 4100 North, Liberty, UT, 84310. Staff Presenter: Tammy Aydelotte, Planner

Planner Aydelotte explained in September of 2022, this parcel was deemed a lot of record. A document was recorded to title reflecting this determination. The applicant is requesting a 15' variance to the minimum 50' stream corridor and a 10' variance to the minimum 20' side setback in the FV-3 Zone. The applicant feels that a variance is necessary to build their desired home. The applicant explains that the current zoning setbacks, the limited space for the septic system, and the seasonal stream that runs through a portion of the lot, make it challenging to construct a single-level, ADA compliant home. The applicant's narrative is included as Exhibit B. The County Engineer, who determines the high-water mark of these stream corridors, has outlined suggestions for the applicant to help mitigate concerns from the County Engineer regarding this variance request. These include locating the home right to the front setback line (50'), to avoid additional encroachment into the stream setback, a front-facing garage, to avoid having a portion of the driveway encroach into the stream setback, as well as fill and retaining walls. If the applicant follows suggestions from County Engineering, then there are no concerns from the County Engineer. The County Engineer has reviewed the applicants' latest site plan and feels this is the best way to mitigate concerns from Weber County Engineering. The applicant has provided a site plan to help visualize applicable setbacks and encumbrances to the property. The only location possible for the septic system is within the front setback. The second page of Exhibit B shows encroachment of the proposed building into side setback of 10 feet, side adjacent to a street of 20 feet, and a front setback of 50 feet, where the proposed right-of-way is 80' or more. It should be noted that on the first page of Exhibit B, the front setback should be shown at 50 feet, further reducing the area within the triangle. Pages 3 and 5 of Exhibit B show where a 1050 square foot house could be located on the lot, should the BOA grant the variance.

Ms. Aydelotte offered a summary of the duties and powers of the Board of Adjustment and stated that for a variance to be granted, it must be shown that all of the following criteria have been met:

- a. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
 1. In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 2. In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
 1. In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.
- c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
- d. The variance will not substantially affect the general plan and will not be contrary to the public interest.

March 27, 2025

e. The spirit of the land use ordinance is observed and substantial justice is done.

Ms. Aydelotte then summarized staff's analysis of the application:

1. Literal enforcement would prevent the property owner from enjoying a substantial property right and developing this parcel in accordance with the Ogden Valley General Plan.
2. Special circumstances surrounding this lot of record include a stream runoff area that cuts across the lot. The location of this stream, the configuration of this lot, and the setbacks standards for the FV-3 zone, create a unique challenge in developing this lot.
3. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that includes construction of a home that meets unique needs.
4. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will allow the construction of a home that is coherent to the neighborhood, and will not be a detriment to adjacent property owners.
5. The applicant is exhausting their remedies, under the land use code, for the potential of a lesser setback and is requesting that substantial justice be done, considering the unique conditions of the lot.

Ms. Aydelotte concluded single-family dwellings are allowed as a permitted use in the FV-3 zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Board Member Barker asked if there are any concerns regarding the application from the County Engineer. County Engineer Myers discussed the history of the property as it pertains to high water events within the channel. The County has worked with residents across the road to the south of the subject property as recent as the summer of 2024 to address challenges with the route of water channel. Construction occurred over the winter of 2024-2025 to adjust an elevation issue and provide for easier flow of the water through the channel. He noted there was flooding in the area a few years ago, but none of the flooding reached the area where the applicant is proposing to build his home; he clarified the flooding occurred prior to the adjustments to the downstream channel and now that there is a positive slope to provide for easy flow of the water all the way to the point where it ties into North Fork drainage, he is confident flooding issues have been mitigated.

Vice Chair McGonegal asked if the changes to the water channel have changed the high-water mark. Mr. Myers stated no changes were made to the FEMA flood plains and the high-water mark remains the same; however, obstacles downstream have been addressed and those obstacles were what had caused the high-water mark in the past. He would be surprised if the high-water mark is observed at the same level now that the obstacles have been removed.

Chair Mumford reviewed the staff narrative regarding the Engineer's recommendations for the construction of the home, and he noted that a few of the recommendations have not been incorporated into the latest plan for the project; this includes building a front-facing garage and not allowing the driveway to encroach into a 50-foot stream setback area. He also noted that Mr. Myers recommended retaining walls, but he asked if those are still necessary. Mr. Myers indicated the retaining walls would elevate the finished elevations to offset the encroachment into the high-water mark. However, now that the stream blockage has been removed, he is not sure the retaining walls are necessary. He would still like to see a front-facing garage, but the new design does include a 25-to-30-foot distance from the stream setback.

The Board reviewed the latest design of the home and discussed the presence of a septic leach field and appropriate setbacks from that element of the property.

Chair Mumford asked Mr. Myers if he is comfortable with the latest design of the subject property, to which Mr. Myers answered yes.

Chair Mumford then addressed Ms. Aydelotte and stated her staff report references a 1,050 square foot home on the lot; he asked if that is a typographical error and noted that he believes the current design of the home the applicant would like to build is closer to 7,000 square feet. Ms. Aydelotte stated that is a typographical error and she deferred to the applicant to discuss the size and footprint of his home.

Chair Mumford invited input from the applicant.

March 27, 2025

Robert Heslop, 3537 Fox Drive, Eden, addressed Chair Mumford's question about the size of the home, noting it is roughly 5,400 square feet in size. The primary residence is 4,300 square feet and there other 1,100 square feet is a mother-in-law apartment. The garage is another 400 square feet approximately. He noted the septic design has been approved and his driveway will not be built on top of it; that is the reason the location of the driveway has been shifted, and the garage is a side-entry design. The current layout of the home and garage has been dictated somewhat by the Health Department as they are the entity that approved the septic system.

High level discussion among the Board and Mr. Heslop centered on other elements of the design of the home, including side setbacks, the use and ownership of surrounding properties.

Board Member Barker moved to approve application BOA 2024-08, 15-foot variance to the minimum 50-foot stream corridor setback on the west side of the proposed building site and a 10-foot variance to the minimum 20-foot side yard setback to the east of the proposed building site. This property is a lot of record located in the FV-3 zone, located at 4116 East, 4100 North, Liberty, UT, 84310.

Chair Mumford stated he feels it would be appropriate to clarify that the variance is actually 25 feet rather than 15 feet for the stream corridor setback, based upon the driveway encroachment, and 15 feet rather than 10 feet for the structure. He asked Ms. Aydelotte to address that matter. Ms. Aydelotte stated specificity is always good in motions regarding variances. Chair Mumford stated that the stream corridor is very specifically identified, and the map shows the driveway encroaching 25 feet into that corridor. He asked Board Member Barker to amend his motion to identify a 25-foot variance for the driveway and a 15-foot variance for the structure. Legal Counsel Thomas suggested that amendment would be helpful and provide clarity; she would also suggest that the motion include a reference to the statute that identifies the criteria for granting a variance.

Board Member Barker amended his motion as follows: the Board approves application BOA 2024-08, 15-foot variance to the minimum 50-foot stream corridor setback on the west side of the proposed building site, a 25-foot variance to the minimum 50-foot stream corridor setback for the driveway, and a 10-foot variance to the minimum 20 foot side yard setback to the east of the proposed building site. This property is a lot of record located in the FV-3 zone, located at 4116 East, 4100 North, Liberty, UT, 84310. The motion is based upon the following findings:

- Literal enforcement would prevent the property owner from enjoying a substantial property right and developing this parcel in accordance with the Ogden Valley General Plan.
- Special circumstances surrounding this lot of record include a stream runoff area that cuts across the lot. The location of this stream, the configuration of this lot, and the setbacks standards for the FV-3 zone, create a unique challenge in developing this lot.
- The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that includes construction of a home that meets unique needs.
- The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will allow the construction of a home that is coherent to the neighborhood, and will not be a detriment to adjacent property owners.
- The applicant is exhausting their remedies, under the land use code, for the potential of a lesser setback and is requesting that substantial justice be done, considering the unique conditions of the lot.

Board Member McGonegal seconded the motion.

Chair Mumford explained to Mr. Heslop that the motion is slightly different than what he requested, and he asked him if he is comfortable with the change that has been made. Mr. Heslop stated that he is comfortable with the motion.

Chair Mumford called for a vote; voting aye: Board Members Barker, McGonegal, and Chair Mumford. Motion carried (3-0)

2. BOA 2024-09: Request for consideration and action on an appeal of a conditional use permit determination made 11/19/2024.

Staff Presenter: Tammy Aydelotte, Planner

Legal Counsel Thomas indicated the Board has the ability to recess this meeting to convene in a closed session to discuss this application; she suggested that the Board do so after hearing from County staff as well as the applicant. She advised the Board on the points they should be considering in order to make their decision tonight. It is most important to focus on facts of record, and she advised them not to make a decision tonight, but to issue a written decision at a later date.

March 27, 2025

Planner Aydelotte explained this appeal request was submitted on December 4, 2024. The applicant had applied for a conditional use permit on May 21, 2023. The applicant had requested approval of an agritourism operation in the FV-3 zone. This application was received under the previous agritourism ordinance, and was therefore reviewed against the ordinance previously in place before it was amended in December 2023. The applicant's property, at 4.61 acres, falls under the "market garden agricultural operation" which includes an agriculturally productive property consisting of three acres or more but fewer than five acres. The applicant grows produce on the property, in gardens and greenhouses. The proposal includes a glamping cabin, which is a permitted use under a market garden designation of the agritourism operation. Currently, the applicant proposes the following uses under agritourism: "Community Garden/Community supported agriculture, U-pick operation, glamping cabin." Though the Planning Commission acknowledged latitude in mitigating nuisance issues related to setbacks requirements (see attached minutes from the meeting), and possibly allowing the glamping cabin use on site, ultimately, they followed staff recommendations to approve all uses except the glamping cabin. The applicant is appealing denial of the glamping cabin use as part of his agritourism use.

Ms. Aydelotte offered a summary of the duties and powers of the Board of Adjustment; LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide appeals from decisions applying and interpreting the Land Use Code and Zoning Maps. The board of adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code and Zoning Maps.

1. The board of adjustment may hear only those decisions in which the land use authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel.
2. The appellant has the burden of proof that the land use authority erred.
3. All appeals to the board of adjustment shall be filed with the planning division not more than 15 calendar days after the date of the written decision of the land use authority.
4. Appeals to the board of adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.

The Board asked Ms. Aydelotte questions regarding the characteristics of the subject property and the existing building, which the applicant proposes to use as the 'glamping' cabin. There was discussion about whether the building meets the County's standards and requirements to be considered an accessory dwelling unit (ADU), and the Board reviewed a map of the property and surrounding properties, as well as access to the property.

Chair Mumford invited input from the applicant.

Jason Fuller, 4661 Creekview Drive, Eden, addressed the issues pertaining to setbacks; there was a grandfather provision for his property and according to the County Land Use Code, the Planning Commission could waive setback requirements for his property. He has a tree farm and there is basically a forest of trees between his home and the nearest home to the east, and he is also willing to erect a fence that would help to screen the proposed use of his property.

Chair Mumford stated that Mr. Fuller's appeal is based upon his feeling that the Planning Commission made an error in their decision making and he asked Mr. Fuller to expound on that thought. Mr. Fuller stated the Planning Commission spent a great deal of time debating his application, but they did not spend enough time discussing the setbacks and the fact that they had the right to waive setback requirements. Chair Mumford stated the Land Use Code requires a distance of 500 feet between existing dwellings and 'glamping' areas, but the distance between the existing building that Mr. Fuller desires to use as a 'glamping' cabin is less than 250 feet from the existing dwelling. Mr. Fuller stated he is not sure the meaning of that requirement. There are several uses in which overnight stays are allowed that are grandfathered under a previous ordinance; he would like the same to apply to his property. For example, a bed and breakfast use can be much more intense than a 'glamping' cabin, but the requirement distance for that use is much less than for a 'glamping' cabin. He feels that the inconsistency creates an unfair situation for him. Chair Mumford asked Mr. Fuller to explain what error he believes the Planning Commission made. Mr. Fuller stated he feels the Planning Commission did not allocate sufficient time to consider whether they could waive the setback requirement for the 'glamping' cabin. They also did not consider the unfairness of allowing larger accessory uses closer to an existing dwelling when compared to a 'glamping' cabin. He stated the 'glamping' use was actually added to the ordinance to help farmers find other ways to use their property to offset the cost of farming and recover their expenses. Chair Mumford clarified that the Planning Commission did approve the agritourism application but denied the 'glamping' use. Mr. Fuller stated that is correct, but the 'glamping' use would generate more income than the agritourism uses. He added that he had worked with a member of Planning staff who is no longer employed by the County and that individual told him that he needed to provide a will-serve letter from the water and sewer company, and he has pursued that at a cost of approximately \$10,000 to \$15,000.

March 27, 2025

He has gotten different and inconsistent answers from Planning staff since then and the issue has drug out over three years. He has the ability to continue to beautify the area and will do so if he is able to secure approval for the 'glamping' use.

Board Member Barker asked how large the shed is. Mr. Fuller stated it is eight by 15 feet, and it was brought onto the property to use in different ways, but it has evolved, and he now desires to use it as a 'glamping' cabin.

Vice Chair McGonegal stated that Mr. Fuller mentioned the Planning Commission had the authority to waive the setback requirements and he asked staff is that is accurate. Ms. Thomas stated she is reviewing the record of the meeting during which the decision on the original application was made in order to answer that question.

Board Member Barker added that he has tried to understand the difference between a 'glamping' cabin and an ADU given that both allow for overnight stays and shall only be served to guests; one is not allowed based upon acreage requirements, but he wants to know the difference between the two buildings. Ms. Thomas stated that in this case it is not appropriate to focus on that matter; it is appropriate to focus on the 'glamping' use because of the record of the application and Planning Commission denial. Board Member Barker stated he wants to know if the shed would be acceptable as a 'glamping' cabin if it were in a proper location and met required setbacks. Principal Planner Ewert answered yes; there is not a clear definition of a 'glamping' cabin, so there is some latitude in determining what types of structures can be denied as a 'glamping' cabin, but a decision of the County should err in favor of the applicant.

Ms. Thomas then responded to vice Chair McGonegal's question about whether the Planning Commission had the authority to waive setback requirements; the old version of the LUC, Section 108-21-6, states 'uses listed below are subject to additional standards beyond any provided in other codes and one or more of the additional standards may be waived by the Planning Commission...' It is true that the Planning Commission has the authority to waive certain standards, but as the appeal authority the Board of Adjustments is simply reviewing the correctness of the legal decision made by the Planning Commission.

Board Member Barker moved to adjourn into a closed session to consider application BOA 2024-09, an appeal of a conditional use permit determination made November 19, 2024. Board Member McGonegal seconded the motion; voting aye: Board Members Barker, McGonegal, and Chair Mumford. Motion carried (3-0)

The meeting recessed at 5:29 p.m. and reconvened at .

Chair Mumford stated the Board deliberated the merits of the appeal extensively and their decision is under advisement and a decision will be rendered in writing shortly.

The meeting adjourned at .

**Respectfully Submitted,
Cassie Brown**



Staff Report to the Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration of an appeal on a decision made by the Ogden Valley Planning Commission in a public meeting held on April 25, 2023 to approve the Osprey Ranch Phase 2 subdivision without a road easement between lots 43 and 46 and subject to the county engineer deciding if a connector road in this location is feasible.

Agenda Date: Thursday, September 11, 2025

Applicant: Robert Mansfield, representative of the MCG Investment Company

File Number: BOA 2025-03

Property Information

Approximate Address: 4271 N. Powder Mountain Rd

Project Area: 0.60 Acres

Zoning: FV-3

Existing Land Use: Vacant

Parcel ID: 22-040-0004

Township, Range, Section: T7N, R1E, Section 33

Adjacent Land Use

North: Residential

East: Residential

South: Residential

West: Residential

Staff Information

Report Presenter: Felix Lleverino
flleverino@webercountyutah.gov
801-399-8767

Report Reviewer: TA

Applicable Land Use Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)

Background

This appeal was accepted for review by the Planning Division on July 8, 2025. The appellant asserts that the Notice of Decision from the Weber County Planning Staff was incorrect and erroneously prohibits access to adjacent, undeveloped property. The appellant is asking for the Board of Adjustment to determine the correctness of the decision rendered by the Planning Commission regarding file number UVO042525, pursuant to Weber County Code Section 102-3-4 (a)(1). The Notice of Decision from the preliminary subdivision approval, as seen in Exhibit A, indicates the original language of the Notice of Decision that has been struck through and corrected to better reflect the audio minutes from the April 25, 2023, Ogden Valley Planning Commission meeting.

The appellant's narrative and supplemental information are included in the staff report as exhibits.

Copy and paste the link below into your Internet address bar. You will find the audio motion at minute mark 44:30.

https://www.youtube.com/watch?v=vlz3Kpo_C9Y

Under Weber County's Land Use Code (Sec 102-3-3), The Board of Adjustment has the following duties and powers:

- a) *To act as the appeal authority from decisions applying and interpreting this Land Use Code and Zoning Maps.*
- b) *To hear and decide variances from the requirements of the Land Use Code.*

The following are the decision criteria and standards for the Board when considering appeals from decisions applying and interpreting the Land Use Code and Zoning Maps (Sec 102-3-4).

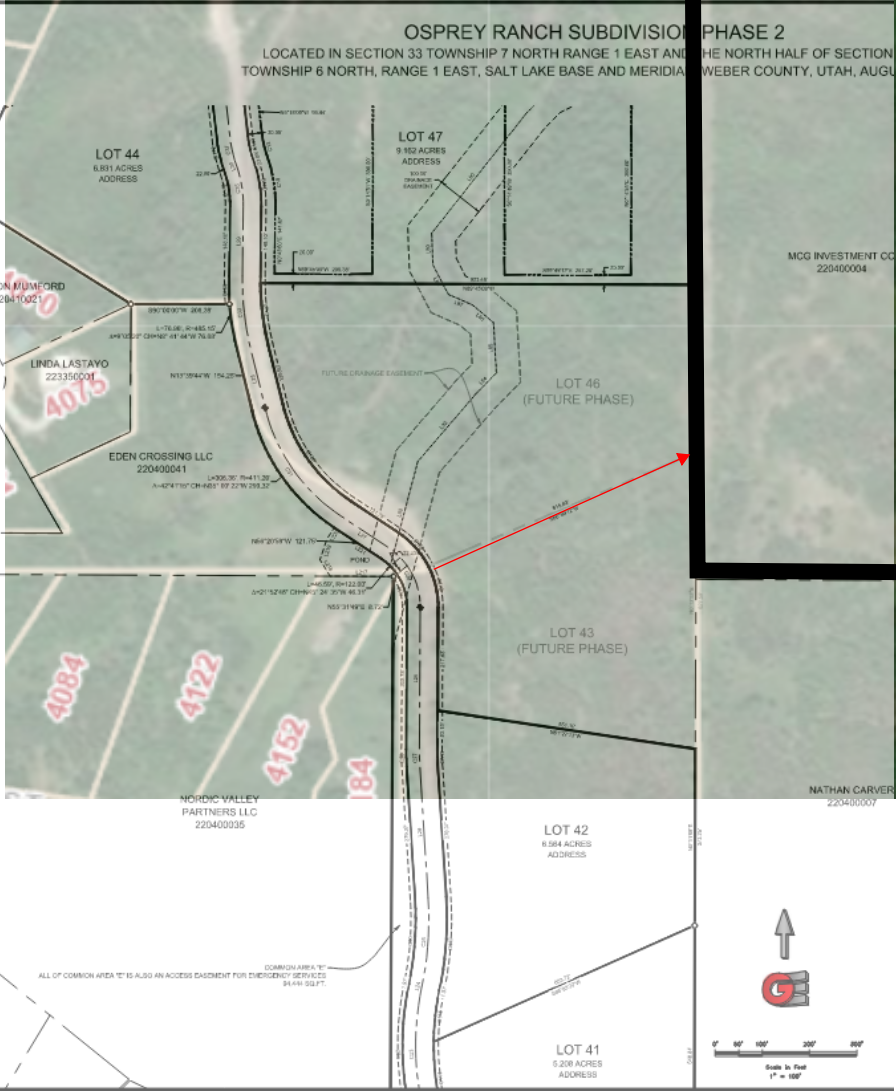
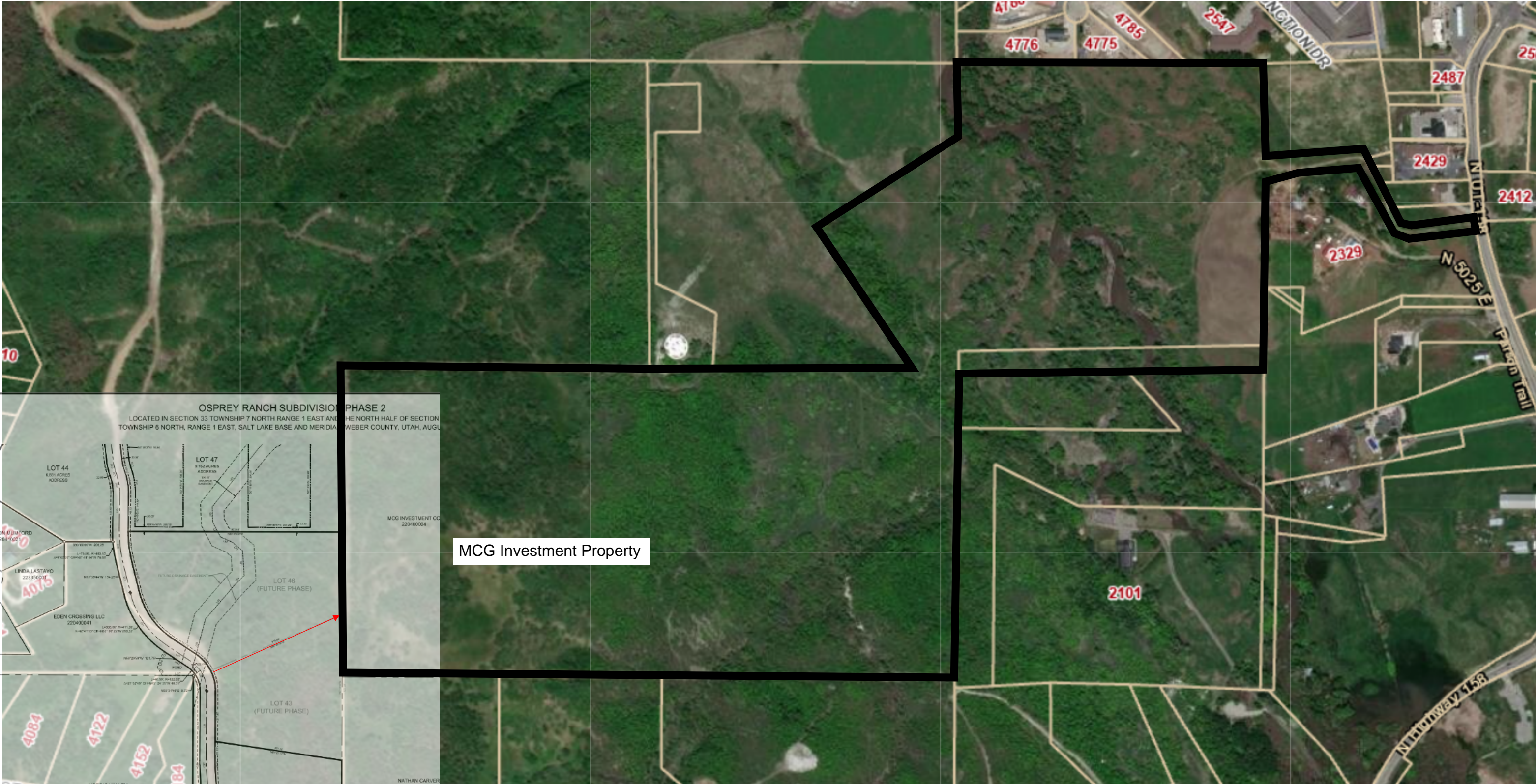
Appeals from decisions applying and interpreting the Land Use Code and Zoning Maps.

1. *The board of adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code and Zoning Maps.*
2. *The board of adjustment may hear only those decisions in which the land use authority has applied the Land Use Code or Zoning Maps to a particular application, person, or parcel.*
3. *The appellant has the burden of proof that the land use authority erred.*
4. *All appeals to the board of adjustment shall be filed with the planning division not more than 15 calendar days after the date of the written decision of the land use authority.*
5. *Appeals to the board of adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.*

Planning Staff considers the exhibits in this staff report to be the record.

Exhibits

- A. Planning Division Notice of Decision for Preliminary Approval
- B. Appellant's narrative
- C. August 2, 2022, minutes for a request for preliminary approval of Osprey Ranch Phase I, April 25, 2023 minutes for preliminary approval of Osprey Ranch Phase 2.
- D. Osprey Ranch Phase 2 Public Meeting Slides
- E. April 25 2023 Planning Commission Report



MCG Investment Property



Weber County

Weber County Planning Division
www.co.weber.ut.us/planning_commission
2380 Washington Blvd., Suite 240
Ogden, Utah 84401-1473
Voice: (801) 399-8791
Fax: (801) 399-8862

Weber County Planning Division
NOTICE OF DECISION

June 19, 2025

John Lewis (Owner)

Case No.: UVO032123

You are hereby notified that your request for preliminary approval of Osprey Ranch Subdivision Phase 2, located approximately 1385 N Hwy 158, Eden Utah, was heard and approved by the Weber County Planning Commission in a public meeting held on April 25, 2023. Approval was conditioned upon meeting all requirements from county reviewing agencies and the following:

1. The owner needs to provide a slope analysis, and to show which lots are impacted by 25% slopes or greater so that a buildable area may be defined on lots impacted by 25% slopes or greater.
2. ~~An access to adjacent property to the east of lot 43 shall be provided and shown on the plat between lot 43 and 46.~~ **This condition was removed by the Planning Commission subject to this condition being looked at by Engineering to see if it's feasible at all to have a road go through this adjoining parcel down to provide connectivity.**
3. An emergency egress access shall be provided to adjacent properties on the common area above lot 39 and along a portion of the strip of Common Area E that runs adjacent to the main public street in this subdivision.
4. Streams and their associated setbacks will need to be shown on the final subdivision plat.
5. The proposal will need to demonstrate compliance with all other final subdivision plat requirements.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

The next step in the process is to ensure complete compliance with the above listed conditions of approval. This letter is intended as a courtesy to document the status of your project. If you have further questions, please contact me at taydelotte@webercountyutah.gov or 801-399-8794.

Respectfully,

Tammy Aydelotte

Weber County Planner III

Time limitation for final approval. Subdivisions that have received preliminary plan approval shall have 18 months from the date of this notice of decision to receive final approval of the subdivision or the first phase if applicable. An extension of preliminary approval for an additional time of up to 18 months may be granted by the planning director upon repayment of the subdivision application fees and the plan being brought into compliance with county, state, and federal laws current at the time the extension is approved. The extension request shall be submitted and approved prior to the expiration of the original approval period. Only two time extensions for preliminary plan/plat extensions will be granted.



MITCHELL BARLOW & MANSFIELD, P.C. | BOSTON BUILDING | NINE EXCHANGE PLACE, SUITE 600 | SALT LAKE CITY, UTAH 84111
TEL: (801) 998-8888 | FAX: (801) 998-8077 | www.mbmlawyers.com

July 3, 2025

By Hand Delivery

Weber County Planning Division

Rex Mumford
Marshall Mcgonegal
Jannette Borklund
Laura Warburton
Ben Peterson
Neal Barker
Weber County Board of Adjustment

2380 Washington Blvd, Suite 240
Ogden, Utah 84401

*Re: Appeal of June 26, 2025, Notice of Decision for Osprey Ranch Phase 2,
File Number UVO042525*

Dear Weber County Planning Division and Board of Adjustment Commission Members,

The law firm of Mitchell Barlow & Mansfield, P.C., on behalf of M.C.G. Investment Company, LTD ("M.C.G.") respectfully submits this Appeal of the June 26, 2025, Notice of Decision for Osprey Ranch Phase 2 ("Notice of Decision"), issued by the Weber County Planning Commission. This Appeal involves a challenge to the correctness of the Notice of Decision rendered by the Planning Commission ("Planning Commission") regarding Applicant Osprey Ranch, LLC and File Number UVO042525. Pursuant to Weber County Code § 102-3-4(a)(1), the Board of Adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Land Use Code. M.C.G. contends that the Notice of Decision is erroneous as it impermissibly prohibits access to adjacent, undeveloped property.

M.C.G. owns 126.81 acres of real property in Eden, Utah (Parcel No. 220400004) (the "Property"). The Property borders the Osprey Ranch Subdivision Development, comprised of

275 acres of real property located at approximately 1385 N Hwy 158, Eden, UT 84310 (“Osprey Ranch Property”). Both the Property and the Osprey Ranch Property are currently vacant and undeveloped. During the Planning Commission’s review of Phase 2 of the Osprey Ranch Subdivision Development, access to the Property originally included a requirement that the new streets be continued into the Property. However, on June 20, 2025, the Planning Commission notified M.C.G. that this requirement was erroneous and Osprey Ranch was only required to look at feasibility of an access to the Property. The Planning Commission subsequently approved Phase 2 of the Osprey Ranch Subdivision Development, which only included the feasibility requirement, on June 26, 2025. M.C.G. now timely appeals this approval.

The approval of Phase 2 of the Osprey Ranch Subdivision Development contradicts the Weber County Land Use Code. Section 106 of the Weber County Code governs street configuration requirements. “A subdivision shall be designed to follow the street configuration requirements herein and elsewhere in the Land Use Code. Where this code allows an applicant flexibility on street location or configuration, that flexibility shall not be construed to relieve the applicant from requirements of this section.” Weber County Code § 106-2-1.010. Specifically, “[t]he configuration of streets in a new subdivision shall . . . (2) Provide for the continuation of new streets into adjoining undeveloped land” Weber County Code § 106-2-1.010(a)(2). Further, the configuration of streets in a new subdivision shall “[n]ot avoid the requirements of this section by shifting the responsibility of providing a street onto landowners of adjacent undeveloped or underdeveloped parcels” Weber County Code § 106-2-1.010(a)(4) (emphasis added). A new subdivision also shall not “create an unnecessary hardship to providing street connections on or to other parcels in the general area” Weber County Code § 106-2-1.010(a)(5).

Phase 2 of the Osprey Ranch Subdivision Development, as approved by the Planning , does not comply with the Weber County Land Use Code because the approved Phase 2 does not provide for connectivity and continuation of streets into M.C.G.’s adjacent, undeveloped property. The preliminary approval originally included a street connection requirement to comply with Weber County Code § 106-2-1.010. However, the Planning Commission improperly removed the requirement from Phase 2, and the Notice of Decision approves Phase 2 with that removal. As is, Phase 2 of the Osprey Ranch Subdivision was illegally approved, violates law and does not provide street connectivity to the Property. Approval of Phase 2 shifts the responsibilities of continuation and connectivity onto M.C.G., which is plainly prohibited by the Weber County Land Use Code. The Planning Commission’s approval of Phase 2 and issuance of the Notice of Decision, therefore, are clearly erroneous because they violate the Weber County Land Use Code by contradicting mandatory subdivision street configurations and shifting hardships onto M.C.G.

This appeal is submitted to the Board of Adjustment pursuant to Weber County Code §§ 102-1-7, 102-3-4, and 102-3-5. The application fee of \$500.00 pursuant to Weber Count Code § 16-2-5 is enclosed herewith. Please contact Robert Mansfield at (801) 998-8888 or RMansfield@mbmlawyers.com should the Board of Adjustments with respect to this Appeal.

Sincerely,

MITCHELL BARLOW & MANSFIELD, P.C.

/s/ Robert E. Mansfield
Robert E. Mansfield

Minutes of the Work Session of the Ogden Valley Planning Commission for August 2, 2022. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/86965330751>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman, Chair, Jeff Burton, Dayson Johnson, Jared Montgomery, Don Stefanik, Justin Torman, and Janet Wampler.

Absent/Excused: None

Staff Present: Charlie Ewert, Principal Planner; Scott Perkes, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- **Pledge of Allegiance**
- **Roll Call:**

Chair Shuman conducted roll call and indicated Commissioners Johnson, and Montgomery were excused. He welcomed newly appointed Commissioners Stefanik and Wampler and also recognized former Commissioner Shanna Francis and thanked her for her service. He then asked if any member of the Commission has a conflict of interest or ex-parte communications to declare. Commissioner Johnson stated he will recuse himself from participating in discussion and action on the Osprey Ranch item because his company has purchased a lot in that project area. Commissioner Wampler noted there is an item on the work session agenda dealing with Wolf Creek and she will recuse herself from participating in discussion of that item. Commissioner Stefanik stated that he will also recuse himself from discussing and acting on the Osprey Ranch item; before being appointed to the Commission he has participated in many discussions with the applicant and Planning staff regarding the project. Legal Counsel Erickson indicated it may not be necessary for Commissioner Stefanik to recuse himself given that his discussions occurred prior to him being appointed as a member of the Commission. He stated that is largely dependent on the content of those discussions, however. The most important consideration for Commissioners is if they can be impartial in their consideration of any matter before them.

1. Approval of Minutes for May 24 and June 7, 2022.

Chair Shuman asked if there are any corrections to be made to the minutes as presented. Commissioner Johnson offered corrections to the section of the May 24 minutes during which he discussed his potential conflict of interest. Chair Shuman declared the minutes approved as amended.

2. Vote for new Vice Chair.

Commissioner Torman nominated Commissioner Burton to serve as Vice Chair. Commissioner Johnson seconded the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

For the benefit of the two new Commissioners and visitors present, Planning Director Grover provided an explanation of the Planning Commissions role in considering and acting on administrative items and legislative items.

Petitions, Applications, and Public Hearings:

3. Administrative items:

3.1 UHV042622 – Consideration and action on a request for a positive recommendation from the Planning Commission for final approval of Hidden Brook Estates Subdivision, consisting of 8 lots. Presenter: Felix Lleverino.

Planner Lleverino reported the Commission granted preliminary approval of Hidden Brook Estates with certain conditions as follows:

1. The developer shall obtain and submit a capacity assessment letter from Nordic Mountain Water before receiving a recommendation for final approval from the Planning Commission.
 - Nordic Mountain Water has provided a letter stating that it has sufficient capacity to serve all 8 lots of this subdivision and that the developer has fully paid for water connections to the NMWI system.
2. A development design verification is required because of the geologic hazards present within the site.
 - Exhibit C contains a letter from Christensen Geotechnical verifying that the Hidden Brook site plan follows the recommendations presented in the project geotechnical report.
3. The developer shall show compliance with the secondary water exemption requirements in LUC 106-4-2.1(b)(2)c.

- The developer is required to enter into a restricted-landscape covenant that shall be recorded with the subdivision plat. The covenant shall restrict the removal or addition of living vegetation from the lot unless the owner acquires the secondary water required by this section; and
 - A note shall be placed on the final recorded plat as required in Section 106-1-8.20.
4. The County Engineer inspect the condition of Big Sky Drive road and provide review comments on potential safety issues.
- "Big Sky Drive is a private road and is owned and maintained by a private association. The developer has entered an agreement with the association to assist in the maintenance." The County Engineering Department placed this comment to clarify that any repairs, maintenance, liability, and responsibility falls on the Big Sky HOA.

The applicant is requesting final approval for an eight-lot subdivision that will gain access from Big Sky Drive, a private road within Big Sky Estates. The private right-of-way is proposed to be 50 feet in width that will provide frontage for eight of the nine lots. The developer has extended 2050 N street to create frontage for all eight lots within the Hidden Brook Development. The subdivision improvements begin at the intersection of 2050 North and Big Sky Drive. be required to construct the Hidden Brook road to a County standard for a private road. The road improvements will extend from the intersection of 2050 North Street and Big Sky Drive to a turnaround area that also stubs to the adjacent property to the east. 2050 North Street will serve as the primary access for residents within the Hidden Creek Development. In an emergency, the residents will have access to an alternate exit through a break-away gate. The fire access road connects with Osprey Ranch and may be used for Hidden Brook residents and Osprey Ranch residents. Where the Hidden Brook Road terminates, Weber County Fire and Engineering will require a turn-around. The Fire District and County Engineer require that the entire length of 2050 North is built to a county standard. 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 and Mr. Lleverino reviewed staff's analysis of the application. Based upon this analysis, staff recommends that the Planning Commission give a positive recommendation for final approval of Hidden Brook Estates Subdivision, consisting of 8 lots.

1. The final plat is approved by all applicable county review agencies before scheduling for final approval from the County Commission.
2. The civil drawings are approved by the applicable county review agencies.

This recommendation is based upon the following findings:

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

There was brief discussion among the Commission and Mr. Lleverino regarding the implications of the recommended conditions of approval, with a focus on the road, emergency access, and water infrastructure improvements associated with the project.

Chair Shuman invited input from the applicant. Brandon Janis addressed the location of the emergency access on the southern corner of the project, which will exit into Osprey Ranch. Mr. Lleverino indicated Planning staff has requested the access point and would like for it to be maintained year-round. Planning Director Grover stated that condition is listed on page four of the staff report. An additional condition of approval could be that approval of this application is contingent on approval of the Osprey Ranch project. Senior Planner Burton clarified that Planning staff would actually require the emergency access and crash gate regardless of the action taken on the Osprey Ranch project based upon the belief that the Osprey Ranch property will eventually be developed. Mr. Grover stated that the Commission can determine their comfort level regarding that recommended condition of approval.

Chair Shuman asked if the Commission would like to consider a motion to accept public comment.

Legal Counsel Erickson advised public input is not required for this type of administrative item and he discussed pros and cons associated with accepting public input; in general, most comments that will be provided may not have applicability whether the application meets the County's land use ordinances and general plan and should not have any bearing on the Commission's consideration and decision. Public input could lead to the Commission making a decision based upon improper factors.

Chair Shuman then called for a vote from the Commission regarding whether they would like to accept public input. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Jan Fulmer stated she lives in Eden, and she is not in favor or opposed to the application, but she asked the Commission to consider the sequenced of development in the area as she is not sure the subject development and the Osprey Ranch development are in sync with one another. She asked that contingency plans be put in place to ensure proper ingress/egress for the residents in the area. She stated that in her neighborhood there is just one access point and residents were forced to turn on sprinklers when a fire was approaching the area.

Scott Bracken used the Zoom chat feature to communicate that it appears the subdivision is being approved with only culinary water though in other areas of the valley, culinary and secondary water access are required prior to issuance of a building permit.

Chair Shuman asked staff to address that comment. Mr. Lleverino stated that in this case, the culinary water district – Nordic Mountain Water – is unable to provide secondary water. The County Land Use Code includes a secondary water exception, and it provides for a subdivision lot that is entirely covered by preexisting native wildlife vegetation and will remain so to be exempt from secondary water requirements. Clearing minimal areas for buildings, driveways, accessory uses is allowed as long as it does not result in the need for outdoor watering. He cited the Code requirements for the information that must be included on the subdivision plat before recording.

There were no additional persons appearing to be heard and Chair Shuman closed the public input period.

Commissioner Torman moved to approve UHV042622, final approval of Hidden Brook Estates Subdivision, consisting of 8 lots, based on the findings and subject to the conditions listed in the staff report as well as additional conditions as follows:

3. Dedication language shall be corrected to state that the roads are private, and the County Commission signature block should be corrected to remove the reference to public road dedication.
4. Emergency access is required from North Street to Osprey Ranch.

Commissioner Stefanik seconded the motion.

Commissioner Johnson asked if the approval and requirement for connection will run with the land in the event that ownership of the land or development plans change. Mr. Erickson suggested that the motion language cite connection to the property to the east rather than naming Osprey Ranch specifically.

Commissioner Torman amended his motion to adjust condition of approval number four to require connectivity to future development rather than Osprey Ranch. Commissioner Stefanik seconded the amended motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

3.2 UVB040422 – Request for a recommendation of final approval of Bright Acres Subdivision, a four-lot subdivision consisting of 14.06 Acres in the AV-3 zone. Located at approximately 5638 N 3100 E, Liberty, UT, 84310. Presenter Tammy Aydelotte

Planner Aydelotte explained the applicant is requesting a recommendation of final approval of Bright Acres Subdivision, a single-phase subdivision consisting of four lots, in the AV-3 Zone. The proposed subdivision and lot configuration are in conformance with the applicable zoning and subdivision requirements as required by the Uniform Land Use Code of Weber County (LUC). She briefly referenced preliminary conditions of approval and concluded staff recommends final approval of Bright Acres Subdivision, consisting of four lots located at approximately 5638 N 3100 E, Liberty. This recommendation is subject to all review agency requirements prior to recording of the subdivision, and the following conditions:

1. All improvements shall either be installed or escrowed for prior to appearing on a County Commission agenda for final approval.
2. A 12-foot-wide public trail easement shall be shown on the final plat along the southern boundary of lots 3 and 4, per the approval of the application for AAE2021-10
3. The proposed access shall comply with safety, design, and parcel/lot standards as outlined in LUC, and will be verified prior to issuing certificate of occupancy for the first residence within this subdivision.
4. An alternative access covenant, per the approval for an alternative access dated 10/28/2020, shall be recorded with the final plat.
5. An onsite wastewater disposal covenant shall be recorded with the final plat
6. A private well covenant shall be recorded with the final plat.
7. A covenant, specifying the allowed amount of non-drought tolerant landscaping, shall be recorded with the final plat.

This recommendation is based on the following findings:

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

Chair Shuman invited input from the applicant. The applicant indicated he had nothing to add to Ms. Aydelotte's presentation.

Chair Shuman called for a vote on accepting public input on this application. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Beth Austin asked if Planning Commissioners have received their four hours of annual training required by State Law. Chair Shuman stated that question does not pertain to the application, and he asked Ms. Austin to hold her comment until later in the meeting.

There were no additional persons appearing to be heard.

Commissioner Burton moved to forward a positive recommendation to the County Commission for application UVB040422, final approval of Bright Acres Subdivision, a four-lot subdivision consisting of 14.06 acres in the AV-3 zone, located at approximately 5638 N. 3100 E., Liberty, UT, based on the findings and subject to the conditions listed in the staff report. Commissioner Johnson seconded the motion.

Commissioner Montgomery referenced the requirement for an easement in the project area and asked if water infrastructure will be relocated to the easement. Scott Hale, applicant, indicated that the pipe that serves the area is in a state of disrepair; he has spoken with neighboring property owners and plans to reroute the pipe within the easement once cost sharing agreements with other users can be reached.

Commissioner Johnson asked if the approval and requirement for connection will run with the land in the event that ownership of the land or development plans change. Mr. Erickson suggested that the motion language cite connection to the property to the east rather than naming Osprey Ranch specifically. This led to discussion of the condition of the existing pipe, with Planning Director Grover indicating the Commission can include an additional condition of approval that the applicant work with owners downstream to make sure that pipe issues are resolved. Mr. Hale stated that he has conducted extensive research to determine legal ownership of the pipe and none of the irrigation companies have noted water rights associated with the pipe. Planning staff indicated it is their understanding that the pipe is owned by the Liberty Irrigation Company and abutting property owners are entitled to water within the pipe. Mr. Erickson advised the Commission against overstepping their purview relative to their ability to impose conditions that are not specifically addressed in the County's LUC. Chair Shuman stated that it would be 'silly' for the Commission to recommend approval of development that would result in elimination of a pipe that is relied upon by existing residents. Mr. Erickson agreed but indicated that there are other conditions of approval that address water matters on the site. Commissioner Burton agreed; the applicant is not precluding other property owners' ability to access the water. He is sensitive to the counsel from Mr. Erickson and stated he is comfortable moving forward with action on the application. He restated his motion.

Chair Shuman called for a vote on the motion. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

3.3 UVO111221 – Consideration and action on a request for preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres, in the FV-3 zone. Located at approximately 1385 N Hwy 158m Eden, UT, 84310. Presenter Tammy Aydelotte.

Commissioners Johnson and Stefanik recused themselves from participating in discussion and action on this application.

Planner Aydelotte referenced previous actions taken regarding this project, noting the preliminary subdivision plat request consists of 31 lots, ranging in sizes from 3.12 acres to 18.57 acres. Lot widths vary from 100 feet to 1972.35 feet. This proposal consists of 283.78 acres, with two open space parcels totaling 30.20 acres, 1.27 acres of trail area, in Phase 1. Public roads, and paved trails within the dedicated right-of-way, are proposed throughout the development. She discussed staff's analysis of the application to determine compliance with the General Plan and zoning ordinances; she presented the plat to orient the

Commission to lot area, frontage/width and yard regulations, after which she concluded staff recommends preliminary approval of Osprey Ranch Subdivision Phase 1, consisting of 31 lots and two open space parcels. This recommendation for approval is subject to all review agency requirements and is based on the following conditions:

1. A proposed final plat for Phase 1 shall be submitted prior to going before Planning Commission for recommendation of final approval.
2. There are lots within Phase 1 that show an average slope that exceeds 25%. As such, every lot with average slopes that exceed 25% shall either have a buildable area shown on the final plat, or a Geotech study shall be submitted for each of these lots.
3. A Natural Hazard Notice shall be recorded with the plat, and a note on the final plat shall be required which states that the parcel is located within a natural hazard study area.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Chair Shuman invited input from the applicant. John Lewis stated he is very proud of this project, and he hopes that similar projects will be proposed in the future. He stated that the Webb Family was very instrumental in the development of the current proposal, which includes 61 lots in 600 acres. He indicated that he has fought hard against a septic sewer system on the property and millions will be spent to route the sewer to the Wolf Creek area. He feels the development is being done in a very responsible way and, most importantly, the density is half of what it could be according to the zoning of the property.

Commissioner Wampler stated that she is concerned about hazards associated with the slope of the subject property and she asked Mr. Lewis to address that matter. Mr. Lewis stated that rigorous geologic and topography hazard studies have been conducted and the slope issues are being mitigated by the reduction of density and assuring that homes will only be constructed in the areas with much lesser slopes and where the building is safe. Commissioner Wampler asked about landscaping of the steep slopes area; the FV-3 zone calls for natural environment and reduced irrigated areas. Mr. Lewis stated that the plan conforms with and even exceeds those requirements; the covenants, conditions, and regulations (CCRs) for the project indicate that no more than half the footprint of a home on a given lot can be covered in sod and drip irrigation must be used for a landscaping that cannot exceed 5,000 square feet. This is intended to promote natural landscaping of the area.

Commissioner Burton asked about proper separation between a dwelling and wooded areas to ensure proper fire protection. Mr. Lewis stated that the setbacks are appropriate and compliant with directives from the Fire Marshall. Xeriscaping between a home and wooded areas can serve as fire protection.

Chair Shuman asked about the ingress/egress of the subject property and connectivity to Big Sky Drive; existing residents are concerned about that connectivity, and he asked Mr. Lewis to expound on that matter. Mr. Lewis stated that he is trying to respect the wishes of existing residents and he understands their concerns about public roads connecting to the private roads in their subdivision; he will provide proper emergency access roads with crash gates.

Commissioner Burton referenced a rectangular shape in the middle of the plat, and he asked if that property is landlocked. Ms. Aydelotte stated it is not owned by the developer and is not part of this project.

Chair Shuman called for a vote on accepting public input on this application. Commissioners Burton, Johnson, Montgomery, Stefanik, Shuman, Torman, and Wampler all voted aye. (Motion carried 7-0).

Planning Director Grover discussed the Planning Commission's purview on this type of application.

Elizabeth Eswick stated she is a member of the Nordic Mountain Water Board, and she lives in Nordic Valley; speaking for the Board, it is true that the Water Company can provide service to 65 lots, but it is important to clarify those are residential hookups and there will not be any additional water for further development or improvements to include accessory dwellings or other types of units. The Company does not have a mechanism to measure the amount of culinary water that is being used for secondary purposes and she does not want the County to place an expectation on the Board that is not possible to meet; the Company

cannot police the amount of water being used in the development. As a private citizen, she communicated that the property is an 'eyesore' right now and she hopes that the landscaping will be restored in conjunction with this development.

Ron Gleason, Eden, discussed secondary water and restrictions on landscaping of the area; those restrictions are only effective until such time secondary water becomes available, and he asked the applicant to explain what steps, if any, are being taken to obtain secondary water. He also noted that typically culinary water is allocated to two uses: domestic and stock water and he feels that is relevant in this instance because many of the lots are being marketed as 'horse property'. He asked the applicant to address how the CCRs for the project will delineate between those two uses.

Blake Green stated that he represents his family, which owns property adjacent to the proposed development. He identified his family's property on the map of the area and stated that they have a great interest in the manner in which this project will impact their property. He understands that change will occur, but it is important that his family's access to their property be preserved as they plan to continue to run cattle on their land. Looking forward to phase 2 of the project, access will be impacted significantly, and it is also important that his family have the ability to connect to necessary infrastructure in the area. He highlighted the existing access points to the property and the point that he believes to be the natural connection point for sewer. He wants the Commission to be aware of these issues when they are making their decision on this application and future phases of development.

Suzanne Frey stated she appreciates the Commission's thoughtfulness regarding this and other applications; the Ogden Valley has two problems: water and access. She cautioned the Commission against approving additional development that will make accessibility very difficult and that will tax the water resources of the area. Traffic is already very bad, and the County should have a right to put a stop to development that will make it worse and impact the quality of life of residents.

Lee Shooshman asked for clarification regarding secondary water provision to the project; she asked if Nordic Valley's only mechanism for capping culinary water usage is financial rather than an actual mechanism that can be used to control usage. Chair Shuman stated that is a question for the water company. Ms. Shooshman stated that the Commission is being asked to grant preliminary approval of a subdivision with no limits on the amount of water that can be used there. Chair Shuman stated he does not believe that is accurate.

Scott Bracken stated that it appears the Commission has moved from approval of developments in one community to another, but the most important issue is water availability and usage, and it may be up to the Utah Division of Water Rights to make appropriate determinations regarding access to water. Chair Shuman agreed and stated that the County looks for approvals from water companies for that purpose.

Kathy Fronzier referenced a road that is labeled for emergency access only and she asked for clarification on whether it will be used for construction access. She asked if it will be used to maintain the water tank that will be installed above the property. She then stated that as a Nordic Valley Water User, she can speak to the fact that prices are increased as a mechanism for controlling water usage.

There were no additional persons appearing to be heard.

Chair Shuman invited Ms. Aydelotte and the applicant to address the comments that were made.

Shane Dunlevy referenced concerns about using Big Sky as a construction access road; the road will be repaved and gated, and all construction traffic will stay on the highway. In regard to the concerns regarding water, the project is simply a customer of Nordic Valley Water Company, and they must abide by the same rules and regulations as other users; the Company does allow limited irrigation usage and the CCRs for the project will further restrict the usage of water for secondary purposes until a point in the future if/when additional secondary water is available. He discussed other water sources that may be utilized in the future and noted that some properties currently have streams running through them that can accommodate horses and small livestock. There are significant water rights available for the property that can be made available for purchase if someone wants to apply and drill a well for stock water. He then addressed Mr. Green's comments about his family's property; he has been in discussions with them and plans to help them preserve their access or provide new access points in the future with development of phase 2 of the project.

Chair Shuman asked Mr. Grover or Legal Counsel Erickson to discuss the County's role in terms of regulating water usage on various projects. Mr. Grover stated the County will not have any role in monitoring the amount of water being used and that is the responsibility of the Water Company. If any property owner wishes to pursue accessory dwelling units within the project, the County would need to ensure that they have proper water access to do so.

Mr. Dunlevy added that the architectural review committee for the project will also review all landscaping plans to aid in promoting water conservation. He then addressed the comment regarding the increased in development of properties in the Valley; he sympathizes with concerns of existing residents and noted that he fully intends to restore the subject property and improve its appearance to its native state.

Commissioner Burton asked Mr. Grover if a water connection takes into account consumption of the unit it being connected to; he stated that some homes may be occupied by 15 family members while others may be occupied by a married couple. Mr. Grover deferred to Mr. Erickson to summarize the ordinance relating to water quantity. Mr. Erickson stated that the ordinance indicates that each developable lot shall be connected to a system that provides sufficient water quantity, quality, flow, rights/shares, and storage if applicable; the quantity and quality of culinary water shall meet the minimum standards required by the culinary water authority, applicable agency, or applicable service provider. This would be proven through a capacity assessment and written verification from the provider. Commissioner Burton stated that there may be an instance where a retired, elderly couple lives in a single-family home and they desire to build an ADU to house visitors; that type of scenario would likely use much less water than a single-family home with many children. Ms. Aydelotte stated that if someone wishes to construct an ADU, they must submit proof that they have secured additional water and sewer capacity. Or the applicant could submit a letter from the water company indicating there is sufficient capacity for such improvements.

Chair Shuman allowed for additional public input.

Jan Fulmer stated she could not clearly hear what Mr. Grover was saying about water available for the project; she asked if the development is defined as a Planned Residential Unit Development (PRUD) for which future short-term rentals are planned. Mr. Grover answered no.

Nate Carver stated he owns the property adjacent to the Greens and also adjacent to Osprey Ranch and he referenced a right of way on the southeast side of his property that should connect to an access point of some kind; in the past, the intention as for the property to connect to the old West Road and he wondered where his access point will be in the future.

Mr. Dunlevy stated that Mr. Carver's right of way will remain where it has always been; he has a 42.5-foot easement and he identified the area that will be left as open space on the plat, which will include Mr. Carver's right of way. It will provide for connectivity through to the Hidden Brook Subdivision.

There were no additional persons appearing to be heard.

Commissioner Wampler stated that in the training she has received thus far there has been a focus on the Commission's role pertaining to water issues; it is her understanding that those are matters for local water boards to determine and given that the Commission has received information from the water board pertaining to their ability to serve this project, the Commission should be considering whether the application is compliant with the LUC and the General Plan. She stated she understands there are rules and restrictions the Commission must follow for administrative items, and she asked if that is correct. Mr. Grover answered yes and noted that prior to a preliminary approval application being presented to the Planning Commission, planning staff requires the applicant to provide will serve letters from utility providers.

Commissioner Burton moved to grant approval of application UVO111221, preliminary approval of Osprey Ranch Subdivision Phase 1, a 31-lot subdivision consisting of 283.78 acres in the FV-3 zone, located at approximately 1385 N. Highway 158, Eden, based on the findings and subject to the conditions listed in the staff report. Commissioner Montgomery seconded the motion. Commissioners Burton, Montgomery, Shuman, Torman, and Wampler all voted aye. Commissioners Johnson and Stefanik recused themselves. (Motion carried 5-0).

Minutes of the Regular Meeting of the Ogden Valley Planning Commission for April 25, 2023. To join the meeting, please navigate to the following weblink at, <https://us02web.zoom.us/j/85022018870>, the time of the meeting, commencing at 5:00 p.m.

Ogden Valley Planning Commissioners Present: Trevor Shuman, Chair, Jeff Barber, Jeff Burton, Dayson Johnson, and Justin Torman.

Absent/Excused: Commissioners Jared Montgomery and Janet Wampler .

Staff Present: Rick Grover, Planning Director; Charlie Ewert, Principal Planner; Steve Burton, Planner; Felix Lleverino, Planner; Tammy Aydelotte, Planner; Bill Cobabe, Planner; Courtlan Erickson, Legal Counsel; Marta Borchert, Office Specialist.

- Pledge of Allegiance
- Roll Call:

Chair Shuman conducted roll call and indicated - **ROLL CALL WAS NOT CAPTURED ON THE AUDIO RECORDING.**

1. Minutes: February 28, 2023. – MINUTE APPROVAL WAS NOT CAPTURED ON THE AUDIO RECORDING.

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2. Administrative Items:

2.1 UVO032123 - Request for preliminary approval of Osprey Ranch Subdivision Phase 2, consisting of 30 lots. This proposal also includes dedication of new County right-of-way throughout this development. Planner: Tammy Aydelotte

Planner Aydelotte provided a brief history of approvals relating to the subject property, dating back to October of 2022; this subdivision plat request consists of 30 lots, ranging in sizes from 4.138 acres to 26.855 acres. Lot sizes and widths vary but all meet the minimum lot standards for the FV-3 zone of 3 acres in area and 150 feet in width. This proposal consists of approximately 275 acres, public roads, common areas, and paved trails within the dedicated right-of-way, throughout the development. She summarized staff's evaluation of the request, including compliance with the General Plan and zoning regulations; lot area, frontage/width, and yard regulations; culinary water, irrigation water, and sanitary sewer disposal; relation to adjoining street systems/Ogden Valley pathways; natural hazards/wetlands/stream corridors; and compliance with the requirements of review agencies. She concluded staff recommends that the Planning Commission grant preliminary approval of Osprey Ranch Subdivision Phase 2, based on all review agency requirements and on the following conditions that will need to be met before the Planning Commission considers recommending approval of the final plat:

1. The owner needs to provide a slope analysis, and to show which lots are impacted by 25% slopes or greater so that a buildable area may be defined on lots impacted by 25% slopes or greater.
2. An access to adjacent property to the east of lot 43 shall be provided and shown on the plat between lot 43 and 46.
3. An emergency egress access shall be provided to adjacent properties on the common area above lot 39 and along a portion of the strip of Common Area E that runs adjacent to the main public street in this subdivision.
4. Streams and their associated setbacks will need to be shown on the final subdivision plat.
5. The proposal will need to demonstrate compliance with all other final subdivision plat requirements.

The recommendation is also based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Chair Shuman inquired as to the requirement for a dedication of property for a road on the northern end of the property. Ms. Aydelotte stated that the County is requesting a 33-foot dedication of property in that area, but she identified an adjacent parcel of property that is not part of the proposed subdivision and indicated that when it develops, the County will also require the other half of the road width for the road along the southern boundary. The Commission discussed the characteristics of the adjacent parcel and the timing of development of that property, with concerns expressed about the potential for the road to never be built

and connectivity will not be achieved. Planning Director Grover stated that if it becomes absolutely necessary, the County can exercise the authority to require sufficient property to be dedicated to develop the road. The County uses good planning principles that help to inform when infrastructure is needed; the County could require the dedication at this time and enter into a deferral agreement with the property owner to allow the improvements to be deferred to a date when the determination is made that the road is needed. The County does not want to be in the business of building road infrastructure and also does not want to exercise eminent domain to acquire the property to build the road.

The Commission and staff reviewed plat maps for the subject property and surrounding properties to understand the zoning designations that have been assigned to different properties and lot sizes; Commissioner Burton noted Osprey will have 30 lots in 275 acres and neighborhood connectivity does not seem as important given the size of those lots and the distance between them. Mr. Grover stated that is a judgement call the Commission has the authority to make; staff has simply provided recommendations relating to connectivity, but the Commission can vary from those recommendations. Ms. Aydelotte stated there are many topographical challenges with the subject property, but staff has worked with the developer to address those challenges while still ensuring adequate connectivity.

Chair Shuman invited input from the applicant.

John Lewis thanked Planning staff for working with him and for their fair analysis of the application; he is proud to be developing just 60 units on 600 acres of land. The only outstanding comment he still has relates to connections; there are 30 lots in this phase of the project with seven connections and he feels that is too much and is a burden. He is willing to dedicate the 33 feet of land on the north side of the land for a future road, but the neighboring property owner is not happy with that requirement. However, it may be that his property will be sold at some point in the future and the new owner will develop it and a road will be needed. The connection he is most concerned with is the road between lots 46 and 43; there are already two connections in that area and the grade of the land is very steep and splitting two lots to provide the additional connection is an undue burden. He asked if the County would consider a pioneering agreement to use the existing access points when they are needed in the future. The Commission and Mr. Lewis reviewed Google Earth images of the property to understand the location of existing and future access points and challenging topography, with Mr. Lewis noting that he believes that the required access between lots 46 and 43 rises to the level of a property taking and that seems unreasonable to him. He added there are seven other access points to his property, and he feels that is more than adequate connectivity throughout the project.

Staff and the Commission then engaged in high level discussion regarding options for ensuring that future access points will be developed in the future when needed; Commissioner Burton asked why staff is recommending placing a requirement on a future subdivision to install additional roads. Ms. Aydelotte stated that the property fronts a major connector road and staff feels the development to the east should be entitled to connect to it when it develops. Commissioner Burton reiterated Mr. Lewis's point that the topography is very steep and building the road will be difficult. Ms. Aydelotte stated it may be that there is an alternative access point and that is yet to be determined.

Commissioner Johnson asked if Engineering has reviewed this application, to which Ms. Aydelotte answered no; typically, staff prefers an Engineering review before presenting the application to the Planning Commission, but in this case, they did not have time to review the application. She noted that this is also a preliminary approval and Engineering will perform a thorough review before any recommendation is made on final approval. Mr. Grover added that the Commission could include language in their motion to indicate that condition of approval number two will be reviewed by Engineering and could be removed if they deem it unnecessary to require the connection. Commissioner Burton stated contour maps as well as a recommendation from Engineering would be helpful to the Commission when they consider final approval of this application.

The Commission, staff, and Mr. Lewis engaged in brief philosophical discussion and debate regarding the reasonableness of requiring a certain number of access points for the subject property and whether those requirements could be defined as a property taking.

Chair Shuman invited questions or comments from the Commissioner. There were no additional questions or comments.

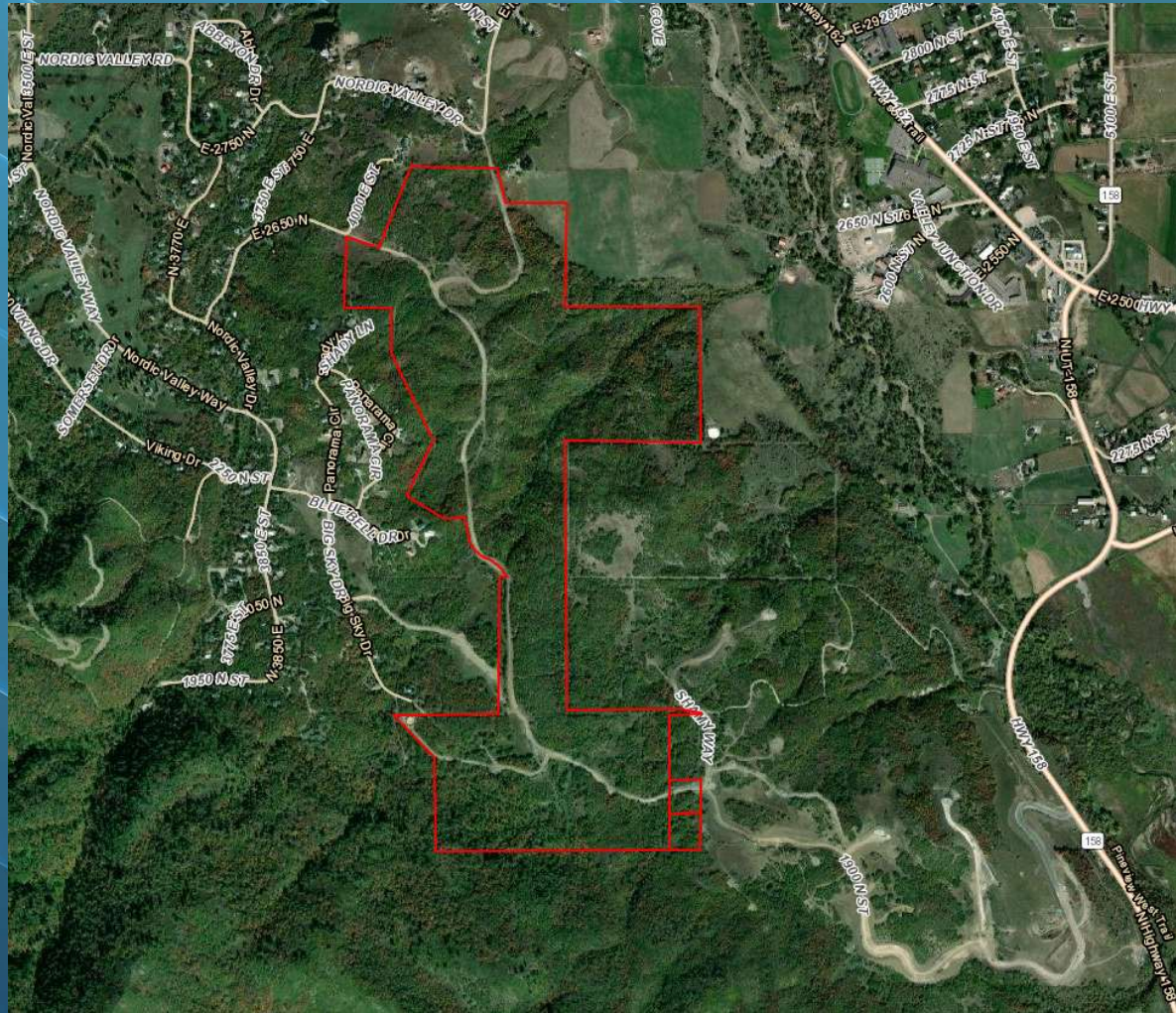
Commissioner Burton moved to approve application UVO032123, request for preliminary approval of Osprey Ranch Subdivision Phase 2, consisting of 30 lots. This proposal also includes dedication of new County right-of-way throughout this development, based upon the findings and subject to the conditions listed in the staff report, with the clarification that condition number two will be reviewed by the County Engineering Division and may be removed if the determination is made that the access is

unneded or cannot be built due to the topography of the area, and with an additional condition that the property owner be required to provide a 33-foot property dedication for the construction of a future road. Commissioner Barber seconded the motion. Commissioners Barber, Burton, Johnson, Montgomery, Torman, and Shuman all voted aye. (Motion carried 6-0).

Exhibit D

OSPREY RANCH PH 2 SUBDIVISION

Standard subdivision consisting of 30 lots in the FV-3 zone.

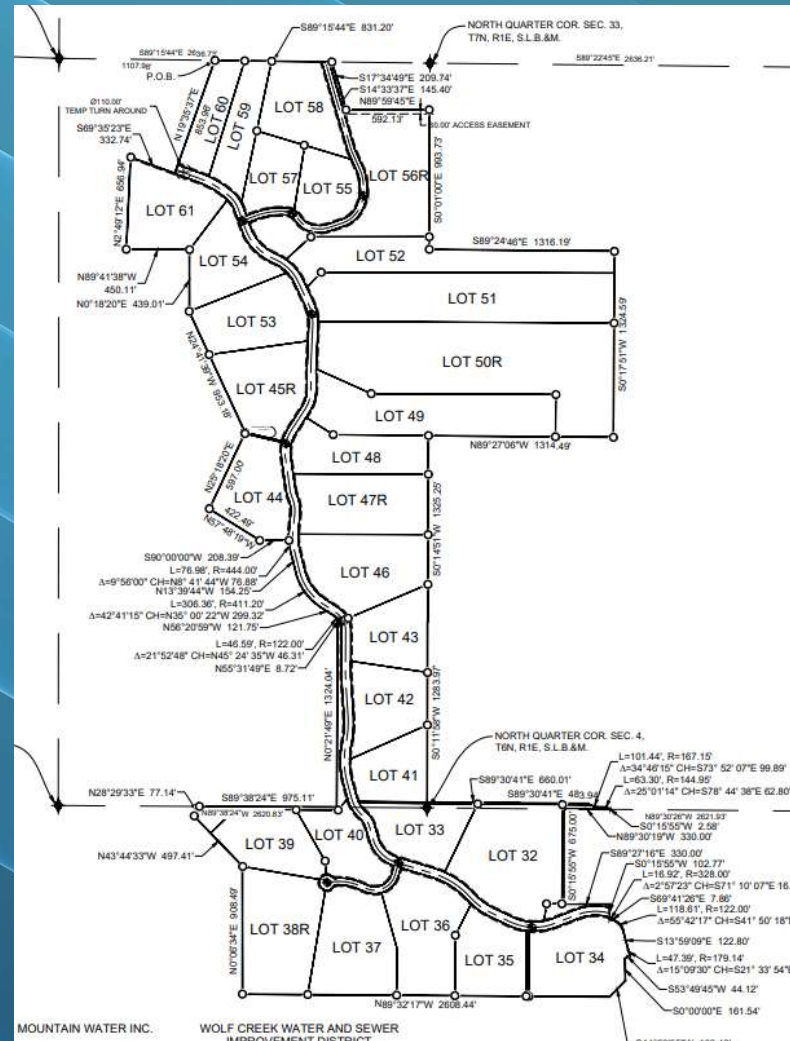


BRIEF OVERVIEW:

- ▶ This is a standard subdivision in the FV-3 zone
- ▶ Total project area for Phase 2 contains 283.78 acres
- ▶ 30 lots, ranging in size from 4.138 acres to 26.855 acres
- ▶ 5 common area parcels, including a park parcel adjacent to Lot 52
- ▶ Public roadways and pathways/trails throughout

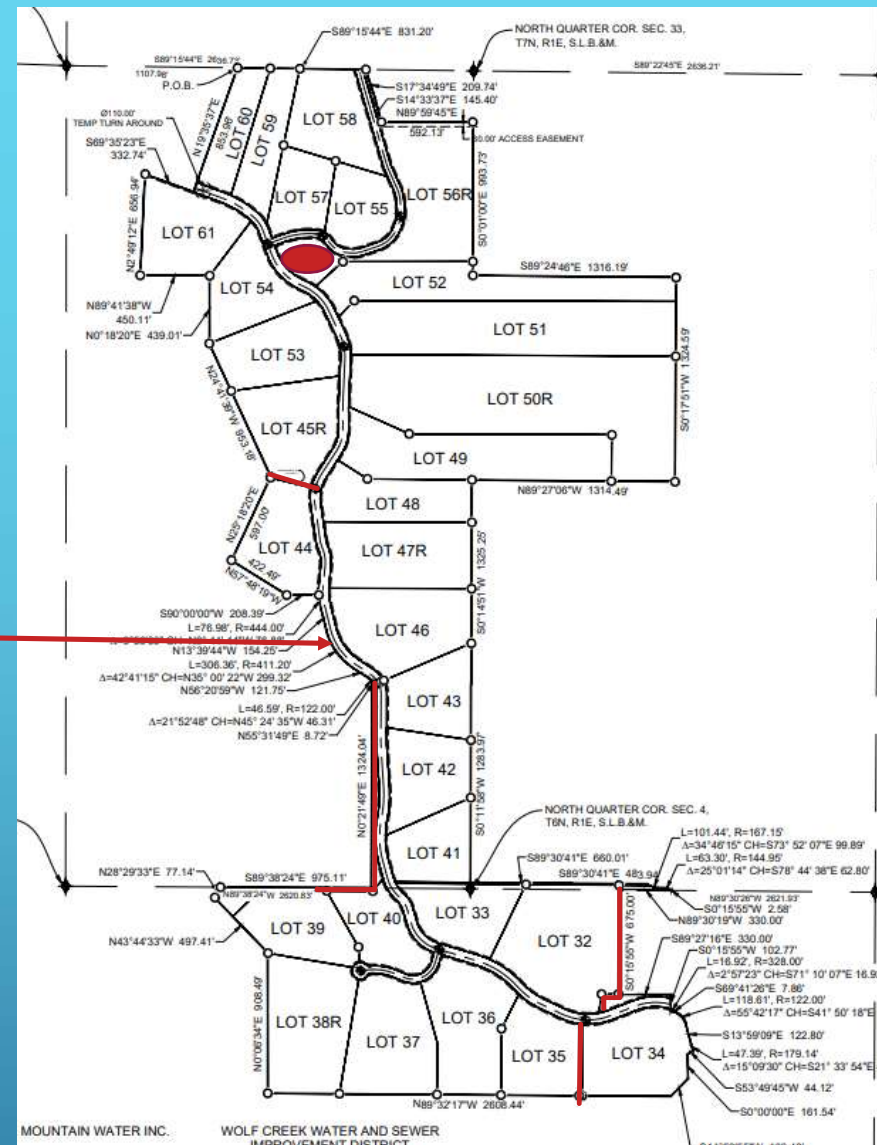
PROPOSED LAYOUT/PRELIMINARY PLAT

- ▶ This is a standard subdivision in the FV-3 zone
- ▶ Total project area for Phase 2 contains 275 acres
- ▶ 30 lots, ranging in size from 4.138 acres to 26.86 acres



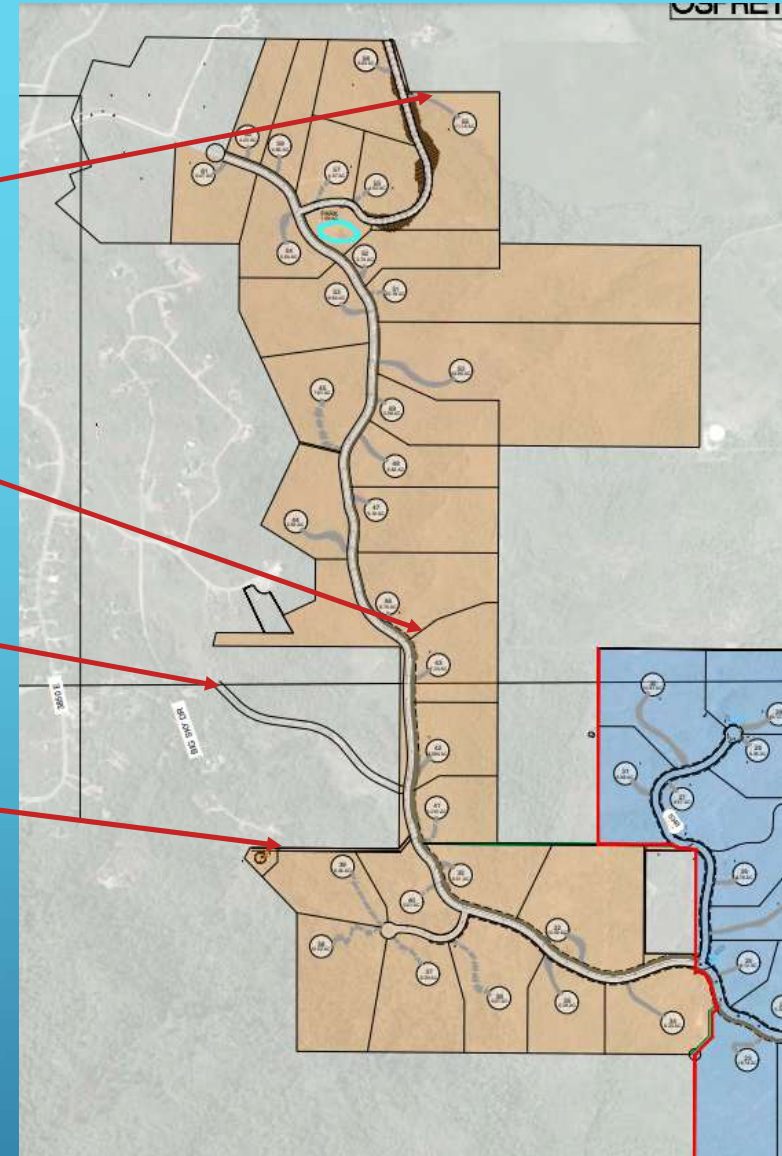
OPEN SPACE/TRAILS

- ▶ 5 open space parcels (common area)
- ▶ Paved pathway will follow the main road through the subdivision



CONNECTIONS/EMERGENCY ACCESS

- ▶ Access to allow for eventual connection to the east.
- ▶ Access to the main road within Osprey from the east (between lots 43 and 46).
- ▶ Connection to Hidden Brooke Estates (emergency access/egress).
- ▶ Connection to Big Sky Dr. (emergency access/egress) and access Road to the water storage tank.



CONNECTIONS/EMERGENCY ACCESS



CONNECTIONS/EMERGENCY ACCESS

- Access to allow for eventual connection to the east.



CONNECTIONS/EMERGENCY ACCESS

- ▶ Connection to Hidden Brooke Estates (emergency access/egress)
- ▶ Connection to Big Sky Dr. (emergency access/egress) and access Road to the water storage tank.



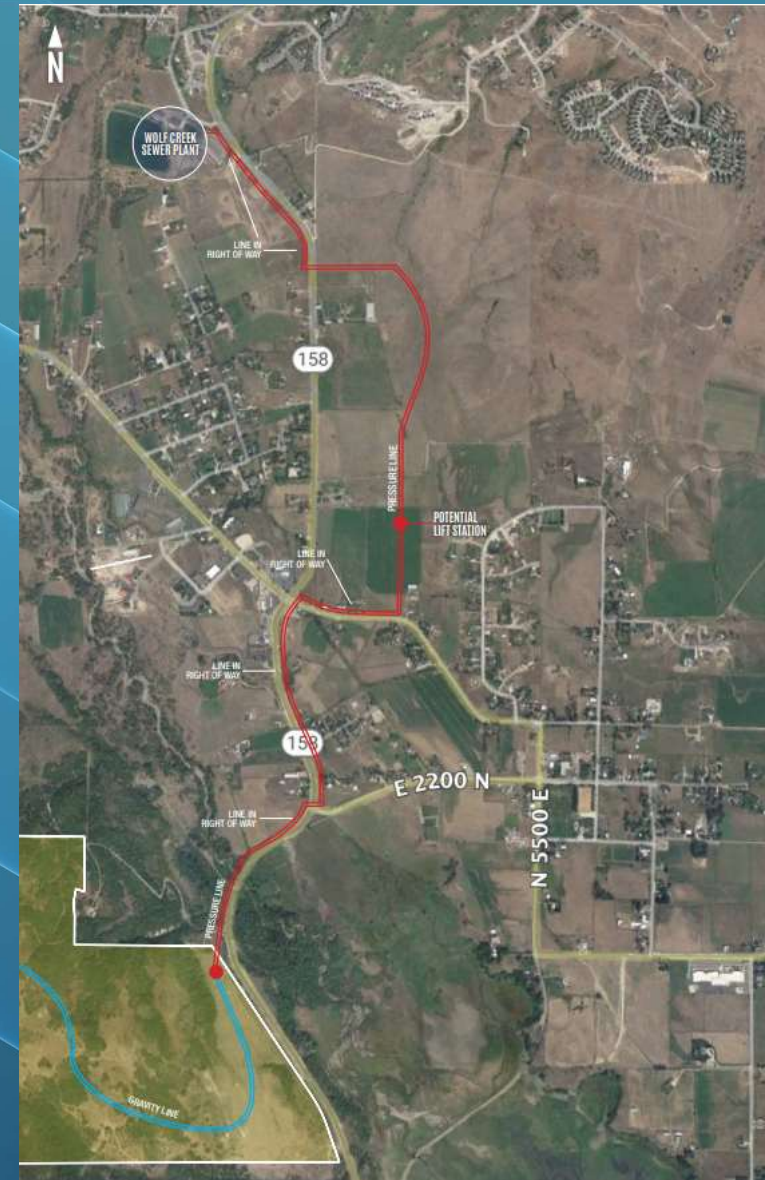
- ▶ LUC 106-2-1 "The configuration of streets in a new subdivision shall:
- ▶ (1) Ensure the continuation of existing streets that can logically and reasonably be connected along the same street alignment;
- ▶ (2) Provide for the continuation of new streets into adjoining undeveloped land;
- ▶ (3) Be designed to consider the block length specified in Section 106-2-3, as it relates to both the subject property and adjoining property;..."

CULINARY/SECONDARY WATER

- ▶ Will-serve from Nordic Mountain Water
 - ▶ Specific for 65 total lots
 - ▶ Minimal residential landscape watering is permitted up to 5000 square feet

SANITARY SEWAGE DISPOSAL

Will-serve from Wolf Creek Water and Sewer, for sewer services only





Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request:	Request for preliminary approval of Osprey Ranch Subdivision Phase 2, consisting of 30 lots and three common area parcels. This proposal also includes dedication of new County right-of-way throughout this development.
Type of Decision:	Administrative
Agenda Date:	Tuesday, April 25, 2023
Applicant:	Osprey Ranch, LLC
File Number:	UVO032123

Property Information

Approximate Address:	1385 N Hwy 158, Eden, UT, 84310
Project Area:	275 acres
Zoning:	FV-3
Existing Land Use:	Vacant
Proposed Land Use:	Residential
Parcel ID:	See application for all parcel numbers
Township, Range, Section:	T6N, R1E, Sections 3 & 4 N and T7N R1E, Section 33 SE

Adjacent Land Use

North:	Vacant/Residential	South:	Vacant/USFS
East:	Hwy 158	West:	Vacant

Staff Information

Report Presenter:	Tammy Aydelotte taydelotte@webercountyutah.gov 801-399-8794
Report Reviewer:	SB

Applicable Ordinances

- Title 104, Zones, Chapter 14 Forest Valley Zone (FV-3)
- Title 106, Subdivisions, Chapters 1-8 as applicable
- Title 108, Chapter 17 Ogden Valley Pathways

Background and Summary

5/24/2022 – CUP 2022-06, approval of a water tank for the proposed subdivision, was granted by the Ogden Valley Planning Commission.

10/28/2022 – Phase 1 recorded.

3/21/23 – Phase 2 application accepted in for review.

This subdivision plat request consists of 30 lots, ranging in sizes from 4.138 acres to 26.855 acres. Lot sizes and widths vary but all meet the minimum lot standards for the FV-3 zone of 3 acres in area and 150 feet in width. This proposal consists of approximately 275 acres, public roads, common areas, and paved trails within the dedicated right-of-way, throughout the development.

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 Forest Valley (FV-3) zone. The purpose and intent of the FV-3 zone is identified in the LUC §104-14-1 as:

“The purpose of the Forest Valley Zone, FV-3 is to provide area for residential development in a forest setting at a low density, as well as to protect as much as possible the naturalistic environment of the development.”

Lot area, frontage/width and yard regulations: The site development standards for the FV-3 zone require a minimum lot area of 3 acres of net developable area. The FV-3 zone requires a minimum lot width of 150 feet. Lots located on the outside of the curved streets, or on the ends of cul-de-sacs may be reduced by up to one-third provided the lot has the required width at a distance of 70 feet back from the front lot line.

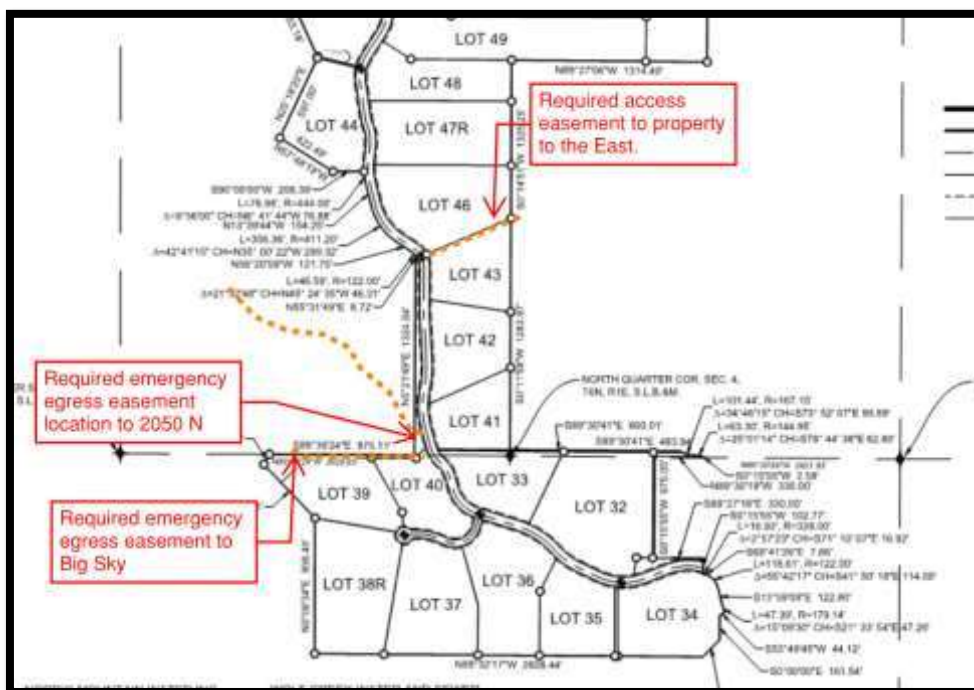
Culinary water, secondary water, and sanitary sewage disposal: Nordic Mountain Water Inc. has issued a will-serve letter to service Osprey Ranch Subdivision with culinary water, with allowances for a small amount of their water to be used for irrigation purposes, dated 5/10/2021 (see Exhibit C – Nordic Mountain Water will-serve letter). Residents shall be restricted to watering no more than 5000 square feet of residential landscape until such time as secondary water becomes available.

Wolf Creek Water and Sewer has issued a will-serve letter, dated 6/24/2022, for sewer services only, specific to this development. The developer has not yet installed infrastructure necessary to connect from the proposed development of Phase 1 to the Wolf Creek Sewage treatment plant. This was a condition of final approval of Phase 1 that this infrastructure either be installed or escrowed for. Neither has occurred since the final plat for Phase 1 was recorded 10/28/2022.

Relation to Adjoining Street Systems/Ogden Valley Pathways: The proposed subdivision will continue a previously dedicated (in Phase 1) public road that will connect Highway 158 to Nordic Valley Drive. A 10 foot wide paved pathway will run adjacent to the new roadway, allowing for pedestrian access from Nordic Valley Drive to pathways that run adjacent to Pineview Reservoir. Proposed pathways shall be constructed or designated for public use on currently existing, or in proposed public rights-of-way.

An emergency egress is being requested by the county to connect to 2050 North Street, through parcel 22-040-0035 (to the proposed Hidden Brook Subdivision – 9 lots). A second emergency egress is being requested so that Big Sky Drive can connect to the main public road throughout Osprey. The developer will also be required to dedicate an access way to property to the east, between lots 46 and 43. The requirement to provide access comes from section 106-2-1 of the land use code which states “The configuration of streets in a new subdivision shall:

1. Ensure the continuation of existing streets that can logically and reasonably be connected along the same street alignment;
2. Provide for the continuation of new streets into adjoining undeveloped land;
3. Be designed to consider the block length specified in Section 106-2-3, as it relates to both the subject property and adjoining property;
4. Not avoid the requirements of this section by shifting the responsibility of providing a street onto landowners of adjacent undeveloped or underdeveloped parcels; and
5. Not create an unnecessary hardship to providing street connections on or to other parcels in the general area, as deemed appropriate by the Land Use Authority.



Natural hazards/wetlands/ stream corridors: This proposed subdivision lies within a geologic hazard study area. Per LUC § 104-22 a hazard study is required. All recommendations outlined in the submitted report (Western Geologic dated 1/3/2022), shall be followed throughout development of this subdivision, and subsequent construction of each lot.

The following are identified hazards/area of concern outlined in the above referenced reports, that are rated with a medium or high likelihood to occur:

Earthquake ground shaking – High

Landslides and slope failures – High

Problem soil and rock – High

Shallow groundwater - Medium

Mitigation recommendations are outlined in the geologic hazard report submitted to the County. The developer will be required to supply a letter from the geologist and geotechnical engineer, after the roads are built, that verifies that the roads were built to the recommendations in the reports.

There are several streams mapped on the property that the developer has not shown on the preliminary plan. The developer will be required to show the streams and their 50 foot setback from the high water mark on the final plat.



Standards: Per LUC § 106-1-8.20, the developer will be required to define buildable areas on each lot that has slopes of 25% or greater. These buildable areas are required to be shown on a final plat, before consideration of final plat approval by the Planning Commission.

Review Agencies: To date, the proposed subdivision has been reviewed by the Planning Division. Per Weber County LUC 106-1-5.20 ***“Agency review. The Planning Division shall distribute copies of the preliminary plan to other county divisions or departments, or other non-county agencies or organizations, as authorized by State Law that it deems necessary to ensure thorough review of the proposed plan. The reviewing agencies shall have 30 days to review the preliminary plans and return applicable information and recommendations to the planning division.”***

This project has not yet been reviewed by Weber County Engineering, Weber Fire District, nor Weber County Surveyor’s Office. The Weber County Surveyor typically begins their review process with a proposed final plat. Per Weber County LUC 106-1-5.30 ***“After the applicable staff and agency reviews, the preliminary plan/plat, including the phasing plan, shall be presented to the Land Use Authority. The Land Use Authority shall review the preliminary plan/plat to verify compliance with applicable ordinances.”*** At minimum, all review agency preliminary requirements must be addressed and completed prior to this subdivision being considered for final approval.

Tax Clearance: There are no outstanding tax payments related to these parcels. The 2023 property taxes are not considered due at this time, but will become due in full on November 30, 2023.

Staff Recommendations

Staff recommends that the Planning Commission grant preliminary approval of Osprey Ranch Subdivision Phase 2, based on all review agency requirements and on the following conditions that will need to be met before the Planning Commission considers recommending approval of the final plat:

1. The owner needs to provide a slope analysis, and to show which lots are impacted by 25% slopes or greater so that a buildable area may be defined on lots impacted by 25% slopes or greater.
2. An access to adjacent property to the east of lot 43 shall be provided and shown on the plat between lot 43 and 46.
3. An emergency egress access shall be provided to adjacent properties on the common area above lot 39 and along a portion of the strip of Common Area E that runs adjacent to the main public street in this subdivision.
4. Streams and their associated setbacks will need to be shown on the final subdivision plat.
5. The proposal will need to demonstrate compliance with all other final subdivision plat requirements.

This recommendation is based on the following findings:

1. The proposed subdivision conforms to the Ogden Valley General Plan.
2. With the recommended conditions, the proposed subdivision complies with the applicable County ordinances.
3. The proposed subdivision will not be detrimental to the public health, safety, or welfare.
4. The proposed subdivision will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.

Exhibits

- A. Application & Narrative
- B. Proposed Plat
- C. Feasibility/Capacity Assessment Letters

Location Map



Exhibit A – Application & Narrative

Osprey Ranch Subdivision Phase 2

[+ Add Follower](#) [✎ Change Status](#) [✎ Edit Project](#)

Address: Near 1828 North Shamy Way, Eden, UT, 84310
Maps: [County Map](#), [Google Maps](#)
Project Type: Subdivisions
Sub Type: Subdivisions
Created By: [Taylor Lewis](#)
Created On: 2/13/2023

Project Status: Accepted
Status Date: 3/21/2023
File Number: UVO032123
Project Manager: [Tammy Aydelotte](#)

[Application](#) [Documents 8](#) [Comments 3](#) [Reviews 0](#) [Followers 6](#) [History](#) [Reminder 0](#) [Payments 0](#)
[Area Fees](#)

Documents

[+ Add Document](#) [Print](#)

List of project documents. Review documents can be found under the Review tab.

Document Name	Date Uploaded	Options
Annexation Plat		
Application		
Attestation		
Cost Estimate		
Culinary Water Will-Serve		
Revision Nordic Water Letter.pdf	3/8/2023	Download Remove Edit
Engineered Plans		
Revision Osprey Ranch PH2 Preliminary Design 3-7-23.pdf	3/7/2023	Download Remove Edit
Final Recorded Plat		
Geologic Hazards Evaluation		
Geotechnical Evaluation		
Notice of Decision		
Open Space Preservation Plan		
Other		
Revision DDW-2022-007019.pdf	3/9/2023	Download Remove Edit
Preapplication Meeting Notes		
Original osprey ph2 pre-app meeting notes.pdf	2/28/2023	Download Remove Edit
Proposed Final Plat		
Proposed Preliminary Plan		
Revision Osprey Ranch PH2 Preliminary 3-7-23 Plat.pdf	3/7/2023	Download Remove Edit
Public Street Connectivity Plan		
Original Connectivity plan.pdf	2/28/2023	Download Remove Edit
Response to Review Agencies		
Secondary Water Will-Serve		
Septic Feasibility		
Sewer Will-Serve		
Revision Osprey Sewer Can_Will Serve.pdf	3/8/2023	Download Remove Edit
Staff Report		
Time Extension		
Title Report		
Original TitleCommitment - Partner[1].pdf	2/28/2023	Download Remove Edit

Osprey Ranch
Subdivision Application
June 2022

Project Narrative

Osprey Ranch is a single family homesite project located in Eden, UT. The property is in the Forest Valley Zone (FV-3), consists of 566.97 acres with 61 lots. The homesites range in size from 3.19 to 18.74 acres. The project contains 43.02 acres of common area open space with a trail system. The property will be developed in two phases with the first phase consisting of 31 lots on 283.72 acres.

Density on the property was determined by using the net developable acreage of 458.64 which translates into 152 entitlements in the FV-3 zone. Osprey Ranch will use 61 units for the project and the remaining balance of the entitlements will be allocated for future Transfer of Density Rights (TDR).

Project Density Calculation

Total Property - 566.97 acres
Roadway - 30.06 acres
Slopes Over 40% - 62.12
Sensitive Lands Stream Corridor - 16.15 acres
Net Developable Acreage - 458.64 acres
Forest Valley Zone (FV-3) requires three acre minimum
Entitlements - $458.64 / 3 = 152.88$ or 152 units

A community trail system will be an amenity to the project. For public benefit, an asphalt pathway will be constructed through the project connecting Hwy 158 to the Nordic Valley neighborhood. Soft trails will provide access to the Forest Service property located south of Osprey and will be privately owned with public access allowed. The site plan includes nearly four miles of both hard and soft trails.

Gardner Engineering prepared the civil design. The geotechnical study was done by Christensen Geotechnical, while Western Geologic evaluated potential geologic hazards.

The project contains over four miles of public roadways and will have no grades above 12%. The Fire Marshal from the Weber Fire District has reviewed the road design layout.

Osprey Ranch will be governed by a Homeowners Association (HOA), Covenants, Conditions and Restrictions (CC&Rs) and Building Design Guidelines. Nightly rentals are not permitted.

Nordic Mountain Water will provide water to the project. A new Membrane Bioreactor (MBR) facility will treat the wastewater. Weber County will act as the body politic over the sewer district. A Preliminary Engineering Report prepared by Aqua Engineering for the MBR has received conceptual approval from the Utah Department of Environmental Quality (DEQ).

Osprey Ranch will have a subdivision entry monument. Any lighting will be dark sky compliant and the Ogden Valley Sign Land Use code requirements will be followed. A temporary project management trailer will be on site for the duration of the construction.

Exhibit B – Proposed Plat

OSPREY RANCH SUBDIVISION PHASE 2

LOCATED IN SECTION 33 TOWNSHIP 7 NORTH RANGE 1 EAST AND THE NORTH HALF OF SECTION 4 OF TOWNSHIP 6 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, WEBER COUNTY, UTAH, MARCH 202

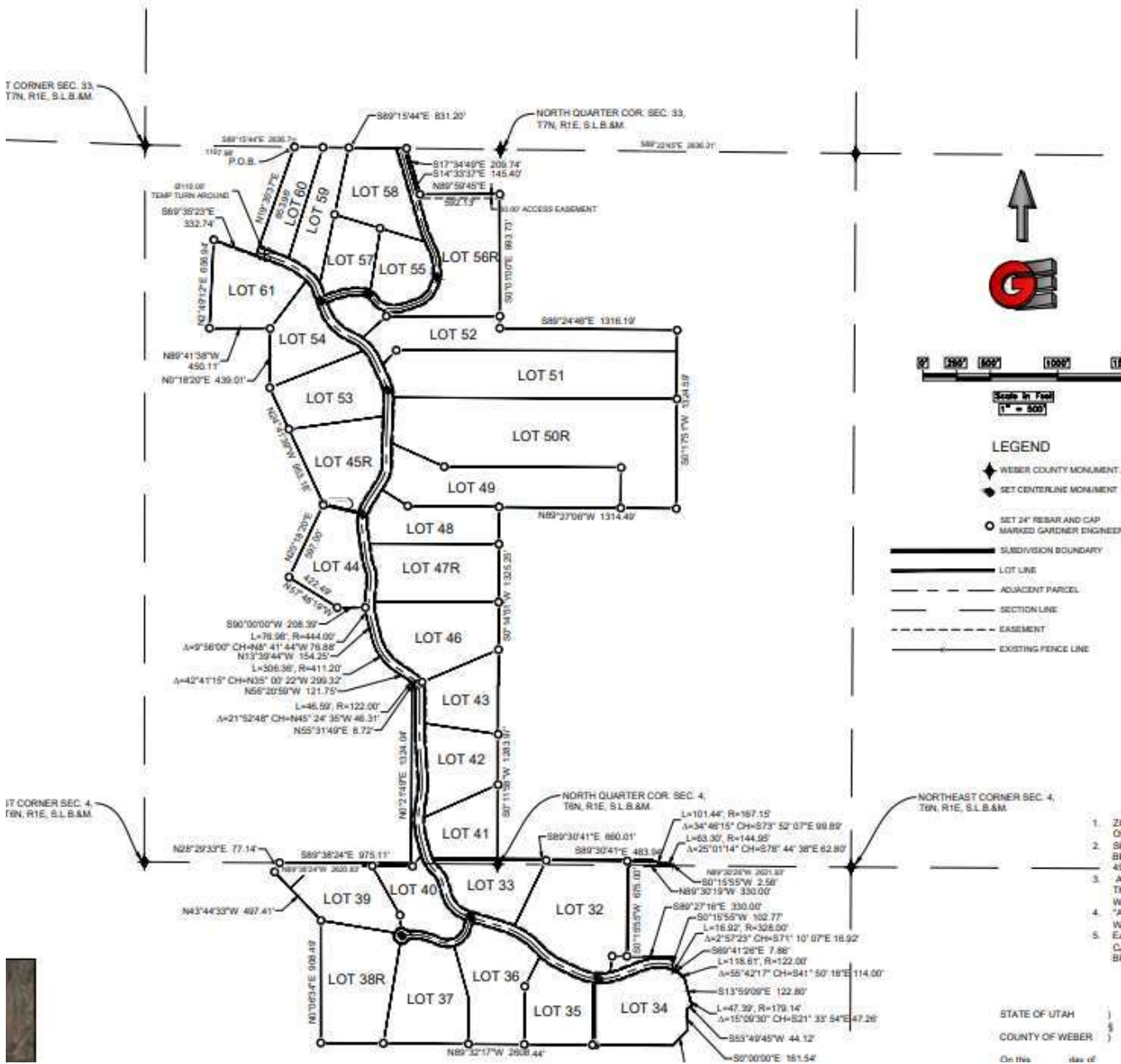


Exhibit C – Capacity Assessment/Feasibility Letters

Nordic Mountain Water Inc.

Mr. Shane Dunleavy
Osprey Ranch LLC
65 10-acre Single Family Home Sites
Liberty, Utah

Ref: Reservation of Service Agreement

May 10, 2021

Nordic Mountain Water Inc. (NMWI) agrees to provide culinary water service to the Osprey Ranch Subdivision, a subdivision containing 65 Single Family Home Sites hereafter referred to as lots, under the following Terms and Conditions:

1. A 10% non-refundable deposit is required on the total number of metered connections rounded to the next whole lot multiplied by the Infrastructure Fee currently in effect.
 - a. Reservation of Service remains valid for one year from date this service agreement is signed by legal representatives of both parties and the full deposit has been made as outlined in this document.
 - b. Outstanding balance is due within one year from date this document is signed or when project is completed – whichever date is earliest.
 - i. Each lot will be assessed our normal monthly fee at time subdivision is completed.
 - ii. Each lot will be assessed a one-time membership fee as required at time subdivision is completed.
2. Options after one year if subdivision is not completed:
 - a. Pay Outstanding balance – each lot will be assessed our normal monthly fee and one-time membership fee.
 - b. Service Agreement is nullified, deposit is forfeited.
 - c. Renew this Reservation of Service Agreement for an additional year at the discretion of NMWI as outlined in paragraph 1 above and at fee rates in effect at time of renewal.
3. Details
 - a. Our current fee rates are:
 - i. Infrastructure fee: \$7,500/lot.
 - ii. One-time membership fee: \$300/lot.
 - iii. Monthly fee for water: \$75/lot for 20,000 gal. Cost increases per 1000 gals above the monthly allotment of 20,000 gal.
 - b. 65 lots at one (1) residential $\frac{3}{4}$ " Connection per lot.
 - c. Total Infrastructure fee is 65 lots X \$7,500/lot = \$487,500.
 - d. Non-refundable deposit due at signing of this document is \$52,500 based on 65 lots X 10% rounded to whole lot multiplied by infrastructure fee/lot.
 - e. Deposit(s) are credited towards the original balance identified in 3c.
 - f. Final payment of original balance (3c) less deposit(s) is due not later than one year from date this agreement is signed or upon completion of subdivision – whichever date is earliest.
 - g. Monthly water fee charge per lot at completion:
 - i. Each lot will be assessed a monthly fee and water allocation in effect at date of completion (3a.iii).
 - ii. Each lot will be assessed a one-time membership fee, at the current rate in effect at date of completion as required by NMWI for water service (3a.ii)

4. General Restrictions:

- a. No Home Owner's Association (HOA) organized by Osprey Ranch Subdivision or its residents can include any culinary water provided by NMWI.
- b. No extensions to the water system developed for the Osprey Ranch Subdivision that includes water provided by NMWI will be allowed beyond the initial 65 lots.
- c. Osprey Ranch Subdivision cannot resale, manage, restrict, or charge any additional fees for water provided by NMWI under any circumstance.
- d. All water provided by NMWI shall be used for culinary purposes only. Minimal residential landscape watering will be allowed up to 5000 sq. feet until such time as secondary water may become available.

5. Costs to the Developer

- a. Developer pays all costs including required modifications to existing NMWI infrastructure necessary to provide NMWI water to the Osprey Ranch Subdivision as identified by NMWI or its approved agent.
- b. Necessary modifications to existing NMWI infrastructure as well as all water line extension design and associated construction is subject to the following:
 - i. Must meet all State, County, and County Fire District Specifications and Requirements
 - ii. Must meet Water System Specifications as provided by NMWI and agreed upon, by signed agreement, at a pre-construction meeting.
 - iii. All Waterline construction must be inspected and approved by NMWI or its identified Agent during all water system construction and/or modifications at the expense of the developer. Frequency of inspection will be determined during the pre-construction meeting and/or as specified in NMWI Standards and Specifications document.
 - iv. NMWI will take possession of new and modified portion of the water system at time of completion and Developer will warranty the full installation and modifications for a period of at least 1 year from completion date at discretion of NMWI.

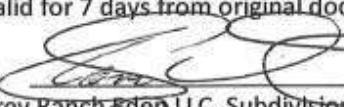
6. NMWI uses a gravity-flow distributions system. Since an engineering study has not been completed for the proposed subdivision, NMWI will not guarantee adequate water pressure.

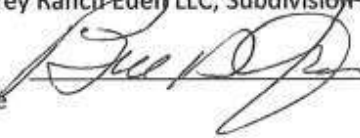
7. This agreement is subject to change contingent upon legal review by an NMWI legal representative.

If these conditions are acceptable, please submit the appropriate deposit and sign this agreement. If you have any questions, please feel free to contact Bill Green at (801)791-3976 anytime or through our NMWI office. This unsigned document remains valid for 7 days from original document date.

Sincerely,

Bill D. Green
President
Board of Directors
Nordic Mountain Water, Inc.

Agreement of Terms:  Date: 5/10/21
Shane Dunleavy, Osprey Ranch Eden LLC, Subdivision Developer

Signature Date:  Date: 5/19/2021
NMWI Representative



June 24, 2022

Weber County

RE: Wolf Creek Water and Sewer Improvement District Sewer services to Osprey Ranch 61 units, Cobabe Ranch 104 units and Eden Crossing 35 units - 200 Units Total

To whom it may concern,

This letter confirms that Wolf Creek Water and Sewer Improvement District has reviewed the capacity of its sewage treatment facilities, and determined it will provide sewer services to the above referenced developments. This Can and Will Serve commitment applies to the above developments only and is non-transferable. This can and will serve letter applies only to sewer services and no other services of District. It is offered subject to the terms of the Eden Sewer Service Area Agreement dated June 24, 2022 between the District and Osprey Ranch LLC, Cobabe Ranch LLC, Eden Crossing LLC, Wolf Creek Resort Holdings, LLC & Watts Enterprises, Inc.

- Sewer services are delivered through connection to the main sewer lines of the District, leading to the Willow Brook Lane MBR Wastewater Treatment Plant and disposal system. Point of connection to be approved by the District.
- Service is subject to scheduled maintenance and construction, power failures, natural disasters, and unforeseen circumstances.
- Sewer services will be provided in accordance with applicable federal, state, and local statutes, laws, rules, regulations, ordinances, and standards.

Sewer services are subject to and contingent on the following:

1. Compliance with the Wolf Creek Water and Sewer Improvement District policies and procedures as those policies and procedures may change from time to time.
2. Subsequent decisions and regulation by local government, the Utah State Engineer, Utah Division of Water Resources, the United States Department of the Interior, or any other applicable governmental agency.
3. Payment of hook up costs and standard billings for service. Failure to pay these costs and billings will result in lien on the properties.

As recipient of said service, you agree to the above terms and to the terms set forth in the Wolf Creek Water and Sewer Improvement District policies and procedures as those policies may change from time to time.

If you have any questions regarding the contents of this letter, please contact the office at (801) 745-3435.

Wolf Creek Water and Sewer Improvement District

E. Miranda Menzies
E. Miranda Menzies, Chair of Board of Trustees

Date: 6/24/22