



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Consideration and action on ZP 2011-01 to rezone property located at approximately 750 Ogden Canyon (The Oaks Restaurant) from Forest Residential Zone (FR-1) to Commercial Valley Resort Recreation Zone (CVR-1) for the purpose of expanding The Oaks Restaurant and using three existing cabins for nightly rentals

**Agenda Date:** Tuesday, March 22, 2011

**Applicant:** Keith and Belinda Rounkles

**File Number:** ZP 2011-01

#### Property Information

**Approximate Address:** 750 Ogden Canyon

**Project Area:** 158.7 total acres (approximately 3 acres to be rezoned)

**Zoning:** Current is Forest Residential Zone (FR-1), proposed is Commercial Valley Recreation Resort Zone (CVR-1)

**Existing Land Use:** The Oaks Restaurant, Residential

**Proposed Land Use:** Expansion of The Oaks Restaurant, nightly rentals of three existing cabins

**Parcel ID:** 20-020-0014

**Township, Range, Section:** T6N, R1E, Section 17

#### Adjacent Land Use

<b>North:</b>	Forest	<b>South:</b>	Forest
<b>East:</b>	Residential	<b>West:</b>	Residential

#### Staff Information

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**Report Reviewer:** JG

### Applicable Ordinances

- Weber County Zoning Ordinance Chapter 9C (CVR-1 Zone)
- Weber County Zoning Ordinance Chapter 12 (FR-1 Zone)
- Weber County Zoning Ordinance Chapter 28 (Noncomplying Structures and Nonconforming Uses and Parcels)
- Weber County Zoning Ordinance Chapter 35 (Petitioner Requirements – Rezone Procedure, Development Agreement)

### Background

The applicants are requesting approval to rezone property located at approximately 750 Ogden Canyon (The Oaks Restaurant) from Forest Residential Zone (FR-1) to Commercial Valley Resort Recreation Zone (CVR-1) for the purpose of expanding The Oaks Restaurant and using three existing cabins for nightly rentals. The Oaks is currently located on a parcel containing 158 acres, of which approximately ten acres are proposed to be rezoned to CVR-1. The majority of the property that remains FR-1 will be placed in a conservation easement, while a small area will remain FR-1 without being encumbered by a conservation easement (see Exhibit A).

The Oaks is currently a nonconforming use in the FR-1 Zone, meaning that it is not allowed under current zoning, but it existed prior to the adoption of zoning regulations in Weber County and is still legal because the use has not been abandoned. However, Chapter 28 does not allow a structure which is occupied by a nonconforming use to be added to or expanded in any manner, unless such expansion is made to conform to all yard and use regulations of the zone in which the structure is located. Based on this requirement The Oaks would not be able to expand in the FR-1 Zone, which is the main reason behind the rezone request.

As mentioned previously, the purpose of this rezone request is to allow The Oaks restaurant building to be expanded, to allow nightly rentals of the three existing cabins on the parcel, and to set aside an area for future rental cabins. The

renovations and additions for the restaurant building include enlarging and enclosing the freezer/cooler and storage area on the west end of the building (541 square feet), and adding a new dining room on the east side of the building (656 square feet). The applicants currently live in the cabins on the property, but they are in the process of building a new home and would like to rent the cabins once they move. The cabins are proposed to be used in a similar manner as those at the Alaskan Inn. The concept plan shows four additional cabins to be built west of the existing cabins. These future cabins would be the same size as, and closely resemble the three existing cabins.

The concept plan associated with this rezone is proposed to have three phases and a ten year time frame. Phase 1 includes a two year time frame wherein the freezer/cooler addition will be completed and the cabins will be made available for nightly rentals. Phase 2 includes the east dining room addition and must be finished within five years. Phase 3 consists of constructing the additional cabins within 10 years.

The CVR-1 Zone requires a site of at least 2.5 acres, but the proposed rezone area contains approximately 10 acres, over half of which is undevelopable due to steep slopes. Staff recommends that the CVR-1 Zone location be amended to get as close to 2.5 acres as possible, while still providing a reasonable area for the proposed concept plan. Allowing a rezone of more property than is necessary, especially when it is undevelopable, is not advised. The applicants should work with their engineer to revise the proposed rezone area according to this recommendation.

### Summary of Planning Commission Considerations

The Weber County Zoning Ordinance Chapter 35 Section 3 states: “To promote compatibility and stability in zoning and appropriate development of property within Weber County, no application for rezoning shall be approved unless it is demonstrated that the proposed rezoning promotes the health, safety and welfare of Weber County and the purposes of this Ordinance. The Planning Commission and the County Commission will consider whether the application should be approved or disapproved based upon the merits and compatibility of the proposed project with the General Plan, surrounding land uses, and impacts on the surrounding area. The Commissions will consider whether the proposed development, and in turn the application for rezoning, is needed to provide a service or convenience brought about by changing conditions and which therefore promotes the public welfare.”

In order to explain how the proposal meets these criteria, Chapter 35 Section 4 requires the applicant to provide answers to the following questions in addition to a narrative that explains the project vision:

1. How is the change in compliance with the General Plan?
2. Why should the present zoning be changed to allow this proposal?
3. How is the change in the public interest?
4. What conditions and circumstances have taken place in the general area since the General Plan was adopted to warrant such a change?
5. How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?

The applicants have provided a narrative describing the project vision and addressing these five questions. Staff has visited the site, discussed these criteria with the applicants, and reviewed the application in order to determine whether or not the questions have been answered appropriately. Staff has made the following determinations relating to whether or not this rezone request meets the criteria:

#### **1. How is the change in compliance with the General Plan?**

The Ogden Valley General Plan does not specifically mention The Oaks, nor is The Oaks shown on the General Plan map of commercial areas to be expanded in the future. However, the proposed rezone does meet many of the General Plan’s goals and objectives including:

- Section 3.01: As part of the rezone, the applicants will encumber over 140 acres south of The Oaks with a conservation easement, which will protect sensitive lands, open space, and wildlife habitat.
- Section 3.02: The Oaks is a historic building that promotes a sense of pride in the Valley’s history and heritage. By expanding the restaurant, the applicants can help preserve this cultural and historic icon.
- Section 3.02: The Oaks plays a large role in promoting quality recreational opportunities in Ogden Canyon. The applicants have partnered with the State Division of Wildlife Resources (DWR) to provide four access points to the Ogden River for fishing and kayaking. In addition, as part of this rezone request, the applicants have proposed granting an easement for a new trail on property south of The Oaks (see Exhibit E). The proposed trail would provide a

connection to the Sardine Peak trail from Ogden Canyon. The applicants are currently discussing this proposal with Weber Pathways and the Forest Service.

Regarding commercial development (Section 5.05), The Oaks was established as a commercial business in this location in 1933 and has been operating since that time. This is clearly an “established commercial area.” Also, the new additions very closely resemble the existing building and do not detract from its appearance or historic nature. These alterations will meet the “quality design standards” described in the General Plan.

Based on the information provided in this section, staff has determined that the rezone request does comply with the goals and objectives of the General Plan, despite this property not being specifically shown as an area of commercial expansion.

## **2. Why should the present zoning be changed to allow this proposal?**

In order for The Oaks to remain competitive and maintain its business a rezone to commercial is practical and beneficial. As mentioned previously, The Oaks has been operating at the present location since 1933 although it has never been commercially zoned. The FR-1 Zone is restrictive in what can be done to expand and maintain the restaurant or establish additional commercial uses on the property. For this reason it makes sense to rezone an established commercial use to a commercial zone. Staff considers the proposed cabin rentals as secondary to the restaurant in terms of commercial use, and the Planning Commission has discretion in determining the extent of what the rezone should allow. The proposed cabin rentals will provide additional income during the restaurants off season, but the Planning Commission may want to clarify the scope of what will be allowed.

## **3. How is the change in the public interest?**

Staff has determined that the rezone request is in the public interest for the following reasons that have been explained previously:

- The commercial expansion provides additional sales tax revenue for Weber County.
- An easement for a future public trail will be provided.
- A conservation easement will be placed on over 140 acres of land.
- The historic character of the Oaks will be preserved and enhanced.
- The recreational opportunities, i.e., access to the Ogden River will be preserved and enhanced.

## **4. What conditions and circumstances have taken place in the general area since the General Plan was adopted to warrant such a change?**

The main change that has taken place is that The Oaks now has a need to expand, which it cannot do in the FR-1 Zone. This need to expand and upgrade the restaurant to remain competitive and viable is the major change that has taken place in the area since the General Plan was adopted. Another small change is the ATK Lodge recently expanding its use from being only for ATK to being a private commercial facility. The Alaskan Inn was also recently changed to a CVR-1 Zone, although its original commercial zoning was granted prior to adoption of the current General Plan.

## **5. How does this proposal promote the health, safety and welfare of the inhabitants of Weber County?**

Staff has determined that this rezone request promotes the health, safety, and welfare of the inhabitants of Weber County in the following ways:

- Culinary water, wastewater treatment, and storm water run-off will continue to be addressed with site plans for future development.
- The Oaks can provide increased sales tax revenue for the County.
- The Oaks can continue to employ 20 people full-time and up to 80 part-time throughout the year.
- The Oaks parking area, which provides a safe place for traffic to pull off the road in the Canyon, will not be affected by the proposed expansion.
- As mentioned previously, future recreational opportunities for hiking and river access will be enhanced.
- A conservation easement will be placed on over 140 acres of land.
- The Oaks is a place of historic and cultural significance in Weber County. This rezone request will help The Oaks maintain this status.

## **Conformance to the General Plan**

This section has been addressed in the answer to question 1 above.

## Conditions of Approval

- Requirements of County review agencies
- A Zoning Development Agreement is required
- The concept plan and phase plan must be followed

## Staff Recommendation

Staff has determined that this rezone request from FR-1 to CVR-1 for The Oaks meets the criteria found in Chapter 35. Therefore, staff recommends that the Planning Commission recommend approval of this rezone request to the County Commission. This recommendation includes the following provisions:

- Revising the proposed CVR-1 area from 10 acres to as close to 2.5 acres as possible, while still providing a reasonable area for the proposed concept plan.
- Placing a conservation easement on the designated property as part of Phase 1 (within 2 years).
- Working with Weber Pathways and the Forest Service to finalize a trail location, and providing an easement for the future trail.

## Exhibits

- A. Proposed rezone map
- B. Applicants project narrative
- C. Proposed phasing plan
- D. Concept plans for The Oaks renovations/additions and cabin sites
- E. Proposed trail easement (The Oaks Trail)
- F. Pictures of The Oaks

## Map 1 (Aerial View of The Oaks)

