



Staff Report for Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for final approval of Aspen Falls Cluster Subdivision 1st Amendment at approximately 4100 North River Drive.

Agenda Date: Tuesday, May 03, 2016

Applicant: Nate Boswell

File Number: UVA 032816

Property Information

Approximate Address: 4100 North River Drive

Project Area: 18.87 acres

Zoning: Agricultural Valley AV-3

Existing Land Use: Agricultural, Open Space, and Residential

Proposed Land Use: Modified Cluster Subdivision

Parcel ID: 22-278-0001 through 0012

Township, Range, Section: T7N, R1E, Section 21

Adjacent Land Use

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

Staff Information

Report Presenter: Ben Hatfield
bhatfield@co.weber.ut.us
801-399-8766

Report Reviewer: JG

Applicable Ordinances

- Weber County Land Use Code Title 104 (Zones) Chapter 6 Agricultural Valley (AV-3 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 3 (Cluster Subdivision)
- Weber County Land Use Code Title 106 (Subdivision)

Background

The applicant is requesting final approval on Aspen Falls Cluster Subdivision 1st Amendment at approximately 4100 North River Drive. The purpose of the request is to covert the Open Space Areas from public to private. The applicant recently proposed this possibility to the Planning Commission and felt positive about the discussion. The following are the main items involved in the amendment:

- Lots 2 and 3 will be combined into one (Lot 11). This reduction of one lot is to compensate for the change in access in the Open Space.
- Open Space Areas will be re-lettered from A, B, C to D, E, and F.
- A preservation easement will continue to encumber further development of the area but will allow access to the Open Space only to private lot owners and not to the general public. Except for area F which will remain open to the public as it contains the trail adjacent to 4100 North.
- AP-1 will continue to be an Agricultural Preservation Parcel and is also part of the private easement.

The property is zoned Agricultural Valley AV-3. All other conditions and improvements from past approvals will apply.

Summary of Considerations

Does the subdivision meet the requirements of the Land Use Code?

- The subdivision meets the requirements for a cluster subdivision.
- Is the reduction of one lot proper compensation for the bonus density originally granted?

Conformance to the General Plan

Subdivisions that meet the requirements of applicable Land Use Codes conform to the General Plan. This subdivision addresses water, wastewater, roads, and other issues which are discussed in the General Plan.

Conditions of Approval

- Requirements of the Weber County Engineering Division
- Requirements of the Weber Fire District
- Requirements of the Weber-Morgan Health Department
- Requirements of the Weber County Surveyors Department

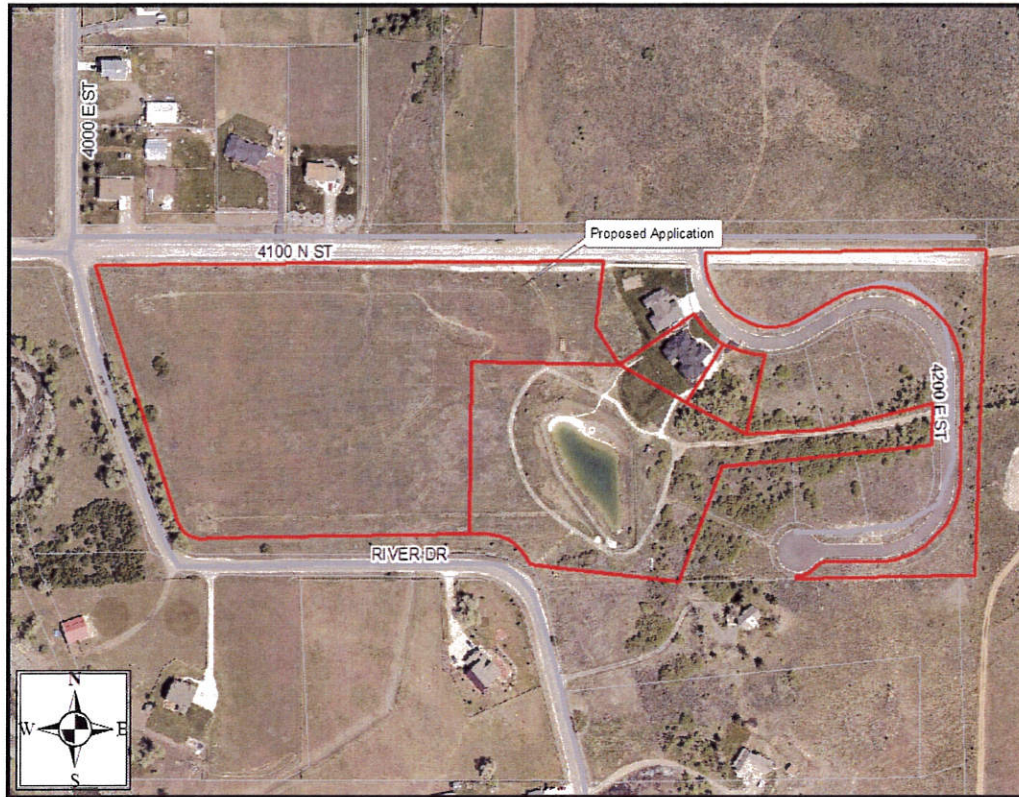
Staff Recommendation

Staff recommends final approval of Aspen Falls Cluster Subdivision at 4100 North River Drive, subject to staff and other review agency requirements, based on its compliance with applicable Land Use Codes.

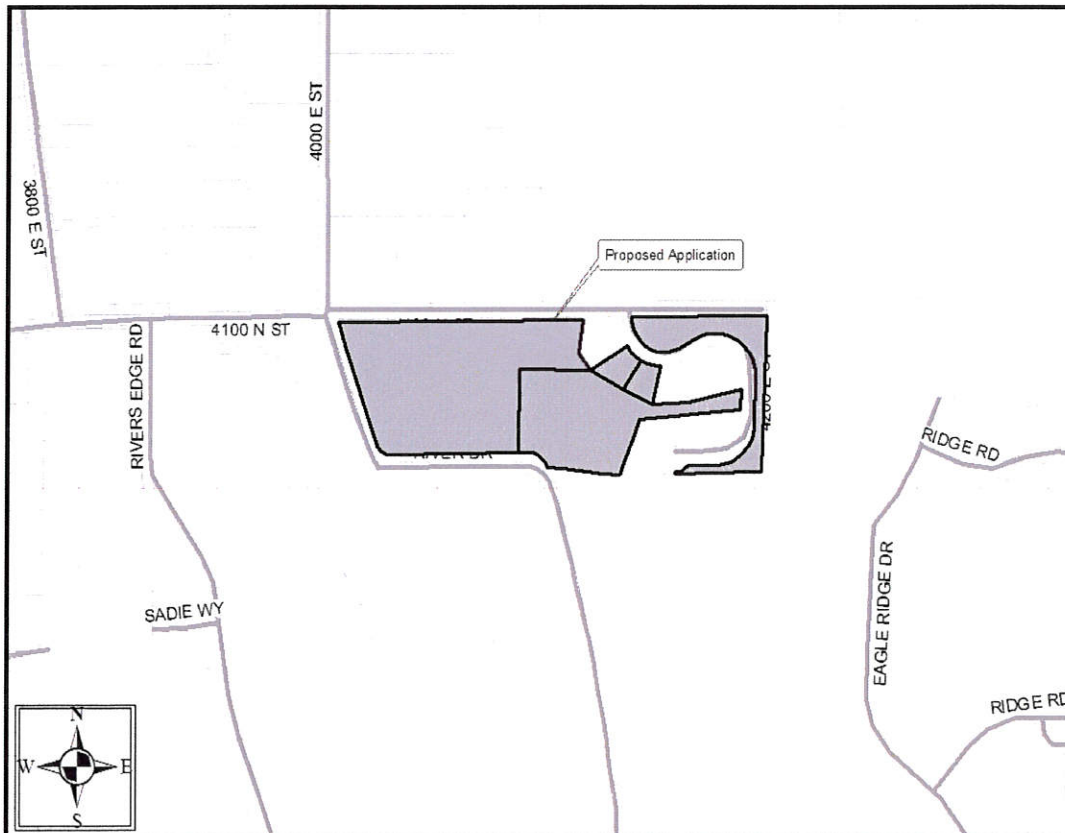
Exhibits

- A. Subdivision Plat
- B. Minutes of the 12/1/2015 OVPC meeting and discussion.

Map 1

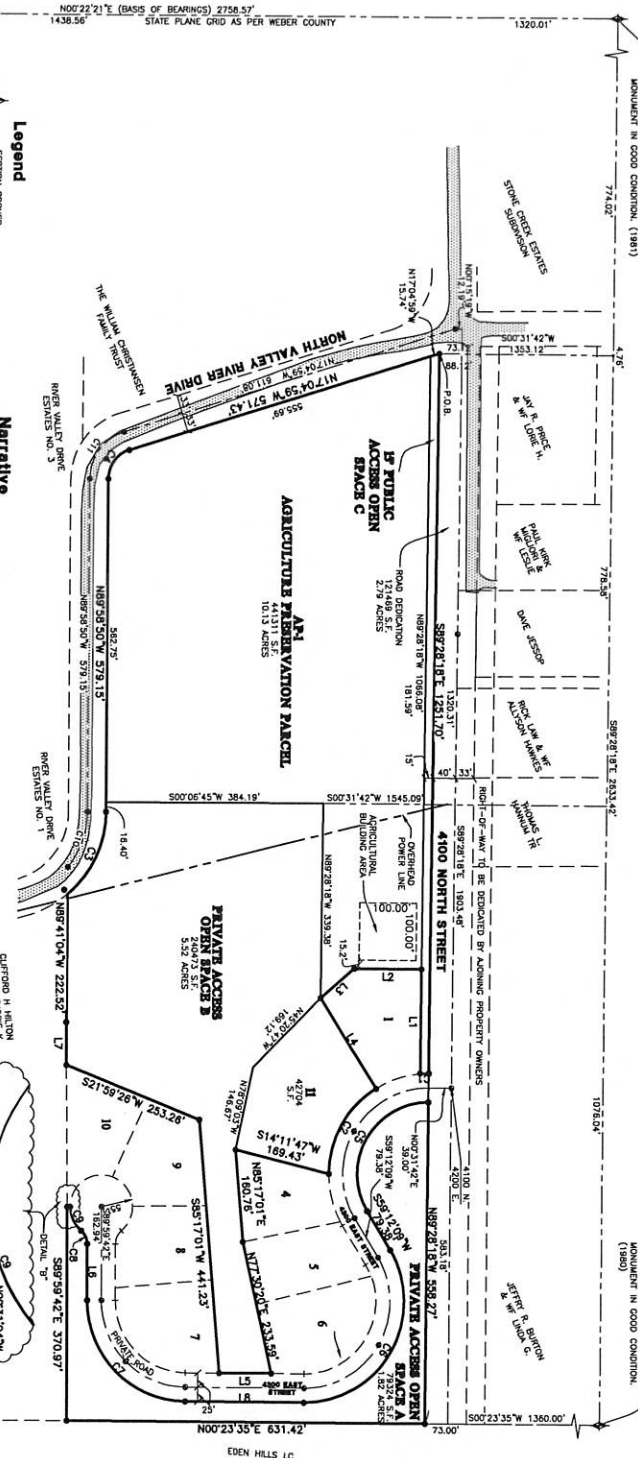


Map 2



Aspen Falls Cluster Subdivision 1st Amendment

PART OF THE NORTHWEST QUARTER OF SECTION 21, 17N., R.1E., S.1B&M., U.S. SURVEY
WEBER COUNTY, UTAH
FEBRUARY, 2016



Legend

- SECTION CORNER
- LOCATION OF CENTERLINE STREET
- STAKE MARK AND BOUNDARY CAP
- STAKE MARK & ASSOCIATES
- TEST PIT
- BOUNDARY LINE
- LOT LINE
- ADDING PROPERTY
- EASEMENTS
- ROAD CENTER LINE
- SECTION 21 LINE
- PUBLIC UTILITY EASEMENT
- CANAL BEC/VANING PATH

Narrative

THE PURPOSE OF THIS PLAN IS TO DRAFT THIS RESUBDIVISION OF THE NORTHWEST QUARTER OF SECTION 21, 17N., R.1E., S.1B&M., U.S. SURVEY, WEBER COUNTY, UTAH. THE PLAN SHOWS THE LOCATION OF THE CENTERLINE OF THE NORTH LINE, EAST LINE OF THE QUARTER, THE SOUTH LINE, AND WEST LINE OF THE QUARTER. THE PLAN ALSO SHOWS THE LOCATION OF THE CENTERLINE OF THE NORTH LINE, EAST LINE, SOUTH LINE, AND WEST LINE OF THE QUARTER. THE PLAN ALSO SHOWS THE LOCATION OF THE CENTERLINE OF THE NORTH LINE, EAST LINE, SOUTH LINE, AND WEST LINE OF THE QUARTER.

Boundary Descriptions

BOUNDARY DESCRIPTIONS
PARCEL A: 411.31 ACRES. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'. BEARING: N07°23'55"E 579.15'. DISTANCE: 558.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'.

Curve Table

Curve No.	Radius (ft)	Length (ft)	Delta (Deg)	Chord (ft)	Area (Sq Ft)
1	100.00	100.00	90.00	141.42	7853.98
2	150.00	150.00	90.00	212.13	17671.46
3	200.00	200.00	90.00	282.84	23562.83
4	250.00	250.00	90.00	353.55	29454.20
5	300.00	300.00	90.00	424.26	35345.57
6	350.00	350.00	90.00	494.97	41236.94
7	400.00	400.00	90.00	565.68	47128.31
8	450.00	450.00	90.00	636.39	53019.68
9	500.00	500.00	90.00	707.10	58911.05
10	550.00	550.00	90.00	777.81	64802.42

Line Table

Line No.	Bearing	Distance	Area
1	N07°23'35"E	631.42	73.00
2	N07°23'55"E	579.15	558.72
3	N89°28'50"W	579.15	568.72
4	N89°28'50"W	579.15	568.72
5	N07°23'35"E	631.42	73.00

Water County Planning Commission Approval
THIS IS TO CERTIFY THAT THE SUBDIVISION PLAN WAS ONLY SIGNED THIS _____ DAY OF _____ 20____.
CHAIRMAN, WEBER COUNTY PLANNING COMMISSION

Water County Registrar
I HEREBY CERTIFY THAT THE REQUIRED PUBLIC RECORDATION OF THIS SUBDIVISION PLAN WAS COMPLETED ON _____ DAY OF _____ 20____.
WEBER COUNTY REGISTRAR

Water County Registrar
I HEREBY CERTIFY THAT THE REQUIRED PUBLIC RECORDATION OF THIS SUBDIVISION PLAN WAS COMPLETED ON _____ DAY OF _____ 20____.
WEBER COUNTY REGISTRAR

Water County Surveyor
I HEREBY CERTIFY THAT THE WEBER COUNTY SURVEYORS' OFFICE HAS REVIEWED THIS PLAN FOR MATHEMATICAL ACCURACY AND CONFORMANCE WITH THE WEBER COUNTY SURVEYORS' ACT AND REGULATIONS. THE SURVEYORS' OFFICE HAS FOUND THIS PLAN TO BE IN ACCORDANCE WITH THE WEBER COUNTY SURVEYORS' ACT AND REGULATIONS.
WEBER COUNTY SURVEYOR

Water County Auditor
I HAVE EXAMINED THE FINANCIAL STATEMENTS AND OTHER DOCUMENTS ASSOCIATED WITH THIS SUBDIVISION PLAN, AND I HAVE FOUND THEM TO BE IN ACCORDANCE WITH THE WEBER COUNTY AUDITOR'S ACT AND REGULATIONS.
WEBER COUNTY AUDITOR

Water County Health Department
I HEREBY CERTIFY THAT THE SOILS, PRODUCTION RATES, AND SITE CONDITIONS FOR THIS SUBDIVISION PLAN HAVE BEEN DETERMINED TO BE IN ACCORDANCE WITH THE WEBER COUNTY HEALTH DEPARTMENT ACT AND REGULATIONS.
WEBER COUNTY HEALTH DEPARTMENT

Water County Recorder
I HEREBY CERTIFY THAT THE SUBDIVISION PLAN WAS ONLY SIGNED THIS _____ DAY OF _____ 20____.
WEBER COUNTY RECORDER

Reeve & Associates, Inc.
200 West 10th Street, Suite 200
Cedar Rapids, IA 52402
Phone: 319.244.1111
Fax: 319.244.1112
www.reeveandassociates.com

Boundary Descriptions
PARCEL A: 411.31 ACRES. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'. BEARING: N07°23'55"E 579.15'. DISTANCE: 558.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'.

Boundary Descriptions
PARCEL B: 532 ACRES. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'. BEARING: N07°23'55"E 579.15'. DISTANCE: 558.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'.

Boundary Descriptions
PARCEL C: 273 ACRES. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'. BEARING: N07°23'55"E 579.15'. DISTANCE: 558.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'.

Boundary Descriptions
PARCEL D: 722.42 ACRES. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'. BEARING: N07°23'55"E 579.15'. DISTANCE: 558.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N89°28'50"W 579.15'. DISTANCE: 568.72'. BEARING: N07°23'35"E 631.42'. DISTANCE: 73.00'.

Minutes of the Ogden Valley Planning Commission Regular meeting December 01, 2015, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Laura Warburton, Chair; Jami Taylor, Greg Graves, Stephen Waldrip, Will Haymond, Kevin Parson,

Absent/Excused: John Howell

Staff Present: Sean Wilkinson, Planning Director; Scott Mendoza, Asst. Director; Jim Gentry, Principle Planner; Charles Ewert, Principle Planner; Ronda Kippen, Planner; Ben Hatfield, Planner; Courtlan Erickson, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

1. **Minutes:** Approval of the September 22, 2015 meeting minutes

Chair Warburton approved the September 22, 2015 meeting minutes as written.

2. **Consent Agenda:**

- 2.1. **CUP 2015-21:** Consideration and action for a conditional use permit request for "Motorcycle and motor scooters sales and service" and "Snowmobile, ATV sales and repair" to be located at 4930 E 2550 N, Suite 6, Eden UT in the Commercial Valley-2 (CV-2) Zone (Kenny Watkins agent for Dog and Bone, LLC)
- 2.2. **CUP 2015-22:** Consideration and action for a conditional use permit request for "Automobile, new or used sales/service" to be located at 4930 E 2550 N, Suites 3-5, Eden UT in the Commercial Valley-2 (CV-2) Zone (Shawn Tuttle agent for Dog and Bone, LLC)
- 2.3. **CUP 2015-23:** Consideration and action for approval of a conditional use permit for a manufacturing building with a height of 30 feet to house a distillery to be for Eden Self Storage, LLC)

MOTION: Commissioner Waldrip moved to approve consent agenda items 2.1. CUP 2015-21; 2.2. CUP 2015-22; and 2.3. CUP 2015-23 and made note that the Planning Commission approval was based on the content of the staff reports as presented in their packet. Commissioner Parson seconded. A vote was taken with Commissioner Haymond, Taylor, Parson, Graves, Waldrip, and Chair Warburton voting aye. Motion Carried (6-0)

Chair Warburton said the next item is a discussion item and not anything that they would be voting on.

3. **Administrative Items:**

- a. **New Business:**

1. **Discussion** Aspen Falls Cluster Subdivision – Nate Boswell, 4091 N 4200 E, Eden UT

Jim Gentry said that there is a petitioner that would like to discuss the possibility of converting open space in a cluster subdivision from public use to private use. As part of the subdivision it was approved with the bonus density for the public open space. The petitioner is proposing that they close the public open space and make it a private open space. The applicant is here and would like to have a discussion.

Chair Warburton asked staff to clarify as to why it is open space and why it is currently public and not private. Mr. Gentry replied that this was not the developer that did the subdivision; it was to get the additional bonus density for additional units. They had some other private common area but they did some public which gave that developer a 20% bonus density.

Chair Warburton asked that there is clearly enough land to make it private; so would they have to give up their bonus density in order to do that? Mr. Gentry replied that would be part of the discussion and staff has talked to him about losing one unit. Currently there are two owners or two homes in this development and they control the rest of the lots.

Nate Boswell, 4091 N 4200 E, Eden UT, Petitioner said that he wanted to discuss this item and the possibilities. His family bought the subdivision in 2009 and the previous developer had about 90% done of the development. They assumed that agreement with Weber County, and finished the agreement in order to build their homes. There are 27 acres with 10 half acre residential lots; there is a portion of open space, and there is agricultural preservation. It was their fault for not doing their due diligence and the assumption that the open space was for the ten lot owners to be used. After they bought

the land and went through everything; they realized that the open space was public. That brought up some concerns and they wanted to figure out a way to get that open space to private because of the concerns listed in his narrative. Some of their concerns has been the detention pond, people swimming there, and unable to do anything about it because it was designated for public use. There is a walking trail that surrounds the pond and up to a private road; there have been people on their ATV's driving through the walking trails. There are vehicles that go to the back, get stuck, and there have been a lot of unusual activity. They wanted to figure out a way to make this open space private.

Commissioner Waldrip asked from where was the public accessing to this open space? Mr. Boswell replied they have a fence that goes along the property line out of the development due to a private road. Technically, the public can't use this road because the original developer had designed a private gate to use that road, and the only current public access is on that corner of the trail by that detention pond.

Commissioner Waldrip asked this three foot wide gate is not wide enough for a ATV or car, but is there a gate right now. Mr. Boswell replied no, they have been accessing through their private road. They would like to have a fence all the way around that property with a gate and be able to say private property for those ten lot owners instead of the public.

Commissioner Parson asked if they have thought about how many lots they would be willing to give up to get that done and how many acres is that open space. Nate Boswell replied that they have been working with staff; to their understanding they would have to give up a lot, and they would be willing give up the lot to continue with that. There are 27 acres, with ten lots, but they would lose one; each property owner would have three acres. The open space is seven acres.

Commissioner Parson asked how deep was the pond is. Mr. Boswell replied its 12 feet deep and in the original plan was to have a fence around that pond. As concerned parents and neighbors they built a six fence around that pond; but that doesn't deter the kids from getting in there.

Commissioner Waldrip asked if that fence around that pond have gate access as well. Mr. Boswell replied that there is a three foot gate on one side and a 10-12 foot gate on the other side.

Chair Warburton asked if they have the authority to police that area if someone went across their property. Mr. Boswell replied obviously that's an access to the public; unless they go through that gate anywhere else is private.

Chair Warburton asked if it's public, then who takes care of the pond, maintains the upkeep, or pays the cost. If this was mandated that it was public, did the county take responsibility for keeping that up. Do they keep up the fence that goes partially around the property? Mr. Boswell replied no, the property owners have been maintaining that, it falls on their shoulders, and that is quite discerning to them.

Chair Warburton asked if someone drowned, who would be accountable. Director Wilkinson replied that he would have counsel answer that question. He was the planner that helped with the original subdivision, and the intent was that in order to get that additional lot that the public would receive this benefit of being able to use the open space. As far as maintaining it that is up to the Homeowners Association within the subdivision; the public would just enjoy the benefit of being able to use it. There was no responsibility given to the county or anything like that for maintenance or upkeep.

Chair Warburton asked why was this not at the Board of Adjustment? Director Wilkinson replied that it would require an amendment to the subdivision to remove that easement that allowed the public on that property. It goes to the land use authority rather than the appeal authority.

Commissioner Waldrip asked who has the ownership of the ten individual lots, public open space, and agricultural preservation easement. Are those all held in single ownership with one entity or owner, or multiple entities and owners involved in this? Mr. Boswell replied that the agricultural preservation and open space are held in an entity that he and his in-law are owners. The other lots are either owned by him or his in-laws and he owns more of the lots and has controlling interest on that.

Commissioner Waldrip said in looking back to 2006; they are changing something that had been dedicated as public use, and potentially taking something away from the public. That's a fairly significant step; are there other mitigation efforts

that they can do as far as access on the roadway, which seems to be the number one issue. A fence or a gate across the roadway is probably less expensive than losing a lot; to restrict access where they have a three foot gate access that may go a long way to mitigate getting some of those impacts without unwinding something that is almost 9-10 years old. That would be something that he would suggest to look back at the economics of that before they come back with their proposal.

Nate Boswell said that along this open space there is a walking trail; if they were able to go private, that land would obviously go back to private, and it wouldn't be open space and they would be happy to keep that. Chair Warburton asked so who built that trail and is that part of Pathways? Director Wilkinson replied the intent was as 4100 north continues that trail continues and eventually connects to Wolf Creek Drive. Right now it's just a section of the trail that doesn't go anywhere.

Commissioner Taylor asked staff if there are other cluster subdivisions that are in this situation and is there precedence for this. Mr. Gentry replied there was other cluster subdivision that had open space that was open to the public; but they might not have ponds or water attractions or things like that.

Commissioner Waldrip asked if there was anything where they would know with a unique situation where there is a body of water on a public type access. Mr. Gentry replied it is usually the HOA because of the liability for the water features.

Commissioner Parson said that he would hope that the county with this subdivision there is a trail that they are responsible for maintaining and people should know. Mr. Gentry replied that if this went from open space to the public; if it is approved they may recommend that this trail stay public.

4. **Public Comment for Items not on the Agenda:** None
5. **Remarks from Planning Commissioners:** Commissioner Haymond asked if this Planning Commission the architectural review board for all the designs that come before them. Did staff go through and make sure that it fit within their loose guidelines and maybe this should be something for a work session. Director Wilkinson replied yes; within the parameters of the architectural and screening standards code that they have, and that is something that they can do.
6. **Planning Director Report:** Director Wilkinson clarified that for the time being, he is technically serving as the Planning Director. Scott Mendoza is the Assistant Planning Director and they will work into the New Year and figure out the transition and how that will work out.
7. **Remarks from Legal Counsel:** Courtlan Erickson said they had previous talked about items going from a consent agenda. He suggested talking about this in the future to determine what should or should not be put on the consent agenda.
8. **Adjourn to Convene to a Work Session**

WS1. DISCUSSION: Ogden Valley General Plan

Charles Ewert said that he would like to bring an update of where they are with the general plan. They had previous open houses about a month ago, followed by a month long public review and public comment period. They had over 100 people at the open houses and they received more comments than they have been able to count thus far. It is premature of how they worked together and how to put them into the context of the draft plan. The good news is there are a lot of good and positive comments that they can easily incorporate into the draft plan. There are two key challenges that the planning commission should be aware of. The first is how are the Transfer Development Rights going to work and the other is the element of the Transportation Plan. In looking at the map, the idea was using the green spaces as Transferable Development Units as sending areas, the yellow spaces as receiving areas, the red spaces as receiving areas, and the resorts as receiving areas. There are a number of ideas of doing this better, and the biggest concern was that there was too much yellow.

Charles Ewert said that they wanted to go back and rework some of the criteria on that; there are a couple of good ideas, one of them being to just focus on allowing transfers to go to cluster developments and let those clusters be where they are going to be. They are working through some of the issues and going through the best approach to make this work.