

Weber County General Plan or Text Amendment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted

3-11-11

Received By (Office Use)

\$300.00



20782

Added to Map (Office Use)

ZP2011-02

Property Owner Contact Information

Name of Property Owner(s)

Lee Schussman / Dave Holmstrom

Mailing Address of Property Owner(s)

Phone 801-884-8593

Phone 801-745-6638

Email Address

Schuss84@yahoo.com | dave.tractor@

Preferred Method of Written Correspondence

Email Fax Mail

Ordinance Proposal

gmail.com

Ordinance to be Amended

Describing the amendment and/or proposed changes to the ordinance:

see attached

Dave Holmstrom

THE HOLMSTROMS' INVESTMENTS, INC.

3128 N. River Drive

Eden, Utah 84310

Phone: 801.745.6638

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Weber County Zoning Map Amendment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted

Received By (Office Use)

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Property Owner Contact Information

Name of Property Owner(s)

Mailing Address of Property Owner(s)

Phone

Fax

Email Address

Preferred Method of Written Correspondence

Email Fax Mail

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)

Mailing Address of Authorized Person

Phone

Fax

Email Address

Preferred Method of Written Correspondence

Email Fax Mail

Property Information

Project Name

Current Zoning

Proposed Zoning

Approximate Address

Land Serial Number(s)

Total Acreage

Current Use

Proposed Use

Project Narrative

Describing the project vision.

Project Narrative (continued...)

How is the change in the public interest?

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

Authorized Representative Affidavit

I (We), _____, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), _____, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

(Property Owner)

(Property Owner)

Dated this _____ day of _____, 20 _____, personally appeared before me _____, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

(Notary)

Eliminate “heliport” from under the designation of “CV2”:

[In order to make changes in the zoning ordinance, these five criteria need to be addressed:]

(Ref: Weber County (Ref: Weber County General Plan and Text Ordinance Amendment Application.)

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?

This is a proposal to remove “heliport” from the permitted uses listed in The Weber County zoning ordinance under the Commercial Valley CV-2 designation. (The intent of this change is to also exclude “helipad,” “helistop,” or other euphemisms for permanently established helicopter landing and take off areas under the CV-2 zoning.) This application has no bearing on the emergency landing and operations of any emergency helicopters in the Ogden Valley, as these operations fall outside of these zoning ordinances.

1: How is the change in compliance with the General Plan?

REMOVING “heliports” from uses allowed in CV 2 zoning is very much in compliance with the General Plan, because the inclusion of heliports in CV 2 zones is NOT in compliance with the General Plan. Commercial, private heliports (unless they are carefully planned, sited, and regulated) are contrary to the basic goals of the Ogden Valley General Plan.

Below are direct quotes from some of the first paragraphs of the Ogden Valley General Plan--quotes that exemplify and embody the very core and central tenants of the general plan:

“They [Ogden Valley residents] are justifiably proud of the unique characteristics of Ogden Valley, its timeless mix of pioneer heritage, agricultural lands, recreation opportunities, abundant wildlife, scenic vistas, and quiet living.”

(Ref: “Ogden Valley General Plan; Sec 2, Ogden Valley Vision Statement, 2.01)

The activities necessary for heliport are in direct conflict with preserving these unique characteristics.

“Abundant Wildlife”:

Activities of a helipad are directly disruptive of wildlife and domestic animals. This opinion was amply and repeatedly expressed by many (over 68% of the respondents) during the public input into the CUP for a proposed Eden heliport/helistop/helipad. (Many more attendees at the meetings would have also spoken against the heliport, but they were asked to not repeat any opinions or data that had already been presented.)

(Ref: OVPC, meeting minutes, Feb 2010 and Jan 2011)

The opinions (expressed in the above referenced meetings that wildlife would be disrupted) are backed up by information in a comprehensive study done by the Utah State University, sponsored by the Weber County Commissioners, and published in May 2009. On page 57 of that study, under “Evaluation Criteria for Use of Land in Ogden Valley” is data on the Biodiversity distribution in the Ogden Valley. The data and diagrams indicate that some of the richest areas of biodiversity in the Ogden Valley are in or near the largest of the areas that are currently zoned as CV 2. These richly diverse animal populations would be directly and negatively affected by regular helicopter take offs and landing.

(Ref: Alternative Futures 2030: Ogden Valley; p. 57).

“Scenic vistas”, and “Quiet Living”:

The commercial operations of helicopters in the Ogden Valley are well established to be very intrusive and noisy. Some of our own Ogden Valley commissioners have counted and recorded over a dozen flights each day of a previous, non-permitted, helicopter operation. (Those are only the flights directly over their neighborhoods. Many Ogden Valley citizens have counted nearly twice that many flights a day during helicopter operations.)

(Ref: Minutes of the OVPC, Jan 2011)

Proponents of the inclusion of a heliport in the Ogden Valley state that each landing and take off takes only “3-4 minutes.”

(Ref: Minutes of OCPC, Jan 2011)

If we assume this “best-case” scenario, noise is produced for only about 4 minutes per landing and 4 minutes per take off. If we assume only twelve flights, and if we assume the operations are only during regular business hours (8am to 5 pm), then the noise of the operations would be present for about 100 minutes out of each eight-hour day of operations. Thus, this business would produce bothersome noise (at 70 to 90 db) for about 20% of every day that it operates. No other businesses that are listed in CV2 zoning would ever be allowed to operate and produce such noise levels for this long a time period every day of operation. The production of such noise levels is not in keeping with the tenants of the General Plan.

“Recreational Activities”:

Heliports offer limited recreational opportunities for a few at the expense of many. The very processes of zoning and planning are designed to help to balance the good of the community vs the rights of private property owners. Considering this balance, the number of customers for any helicopter service will be at a maximum 100 / month. For the benefit of these customers and for the profit of the applicants, many hundreds of Ogden Valley residents, business owners, and visitors who are here to enjoy other recreational activities will pay the price and will be very negatively affected by the disruptive and intrusive activities every day that the flights take place.

The General Plan goes on to state:

“Ogden Valley is a place which:

- Values and protects its natural beauty and natural resources
- Cherishes and maintains its rural atmosphere and rural lifestyle
- *Empowers its citizenry to take part in decisions affecting the Valley*”

(Ref: “Ogden Valley General Plan; Sec 2, Ogden Valley Vision Statement, 2.01)

Rather than empowering the citizens in Ogden Valley decisions, establishing a heliport in the existing CV 2 zones would take away the power of the citizens to influence decisions affecting the Valley. Commercial, for profit operation of heliports in CV 2 zoned areas would be completely at odds with the many residents who have spoken against at the public hearings in the OVPC meeting in 2010, 2011, and/or signed petitions against heliports.

(Ref: OVPC Minutes, Jan, 2010; on-line petition: <http://gopetition.com/petitions/stop-heliport-at-red-moose-lodge.html>)

Later in the General Plan is the following statement about business developments in the valley:

“Weber County feels that Ogden Valley’s commercial development should be balanced with residential growth and occur in a manner that does not detract from the area’s character.”

Heliports do not fit within this definition of commercial development, as they are very much out of “character” with the Ogden Valley. It is unknown why that they were ever included in the Ogden Valley C2 designation. One might surmise that “heliport” was included in the original CV2 zoning so as to allow emergency helicopter use in the valley. Inclusion of a CUP for a helipad benefits one very small subset of the outdoor industry at the expense of many other businesses and at the expense of many of the affected residents of the Valley. Such a use should be very carefully conditioned or

it will very much “detract from the area’s character” and be in direct opposition to the General Plan.

Emergency helicopter landing in ANY safe landing zones is, of course, already allowed; but a helipad or heliport, commercial or private, is NOT in keeping with any of the basic tenants of the General Plan and the commercial development that has been envisioned in the General Plan.

2- Why should the present zoning be changed to allow this proposal?

And

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

The present inclusion of a heliport as a conditional use in CV 2 zones should be removed because **there has been a very fundamental shift in the entire process needed to obtain a CUP.**

Previously, applications for a CUP were to be approved only when the applicant for that permit could show that the use of the land under consideration was in the general interest of the community and that use did not have serious negative effects on the community—either in terms of health, welfare, or environment.

That CUP process has been completely changed.

This is a direct copy of what PREVIOUSLY was necessary to obtain a Conditional Use Permit. (As of March 5, 2011, it was still on the Weber County web site. The site is: Weber County; Planning; Zoning Ordinance; 22-C Conditional Use Permit.)

“22C-5 Basis for Issuance of Conditional Use Permit

The Planning Commission shall not authorize a Conditional Use Permit unless evidence is presented to establish:

- That the proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the community, and
- That such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property or improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, buildings and structures when considering traffic generation, parking, building design and location, landscaping and signs, and
- That the proposed use will comply with the regulations and conditions specified in this Ordinance for such use, and
- That the proposed use conforms to the goals, policies and governing principles and land use of the General Plan for Weber County

- That the proposed use will not lead to the deterioration of the environment or ecology of the general area, nor will produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, public and private properties including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole.”

Some time in the recent past, this entire paragraph has been completely removed from the planning ordinance.

Here is the NEW Weber County “Criteria for Issuance of Conditional Use Permit”:

“Conditional uses shall be approved on a case-by-case basis. The Planning Commission shall not authorize a conditional use permit unless evidence is presented to establish:

- 1- Reasonably anticipated detrimental effects of a proposed conditional use can be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards. Examples of potential negative impacts are odor vibration, light, dust, smoke, or noise.
- 2- That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use. “

By the adoption of this new ordinance, the entire intent of the granting of a CUP appears to have been shifted. Previously, the applicant needed to show that certain conditions were met—that the use of the land was in the best interests of the citizens and the community. Now, no such conditions need to be established. Absent in the new ordinance are any references to the General Plan; to the environment; to the citizens of the surrounding areas; to any pre-existing residents or businesses; or to the health, safety, or general well-being of the citizens. It also appears, that all an applicant must do is to propose “reasonable conditions” to mitigate any expected detrimental effects. Apparently, the applicant does not even have to show that the mitigation will be effective before the CUP is granted.

The new laws appear to move “conditional uses” (i.e. uses which would be allowed only under certain conditions) closer to the category of being “permitted uses” (i.e. uses that are specifically stated as being allowed under that zoning designation). “Heliports” should be removed as a use from the CV2 zoning designation because there is no longer a realistic way to apply “CONDITIONAL” use.

If “heliport” is allowed to stay on the CV 2 zone list of uses, an application can be filed for a heliport on ANY of the 17 CV 2 sites in Ogden Valley. And, according to the new “Criteria of Issuance of CUP,” it would be very difficult to make that use conditional; the use is now specifically listed, and would be hard to deny.

In reviewing ALL of the allowed uses under the CV-2 heading, it is clear that all uses which could possibly impact neighbors or surrounding areas are specifically restricted in the wording of the CV-2 specifics to be permitted only for uses confined to INSIDE a building. The operation of a heliport in the Ogden Valley would be the ONLY permitted

activity that could have such a large negative impact outside of the boundaries of the private property on which it would be located.

The specific listing of "heliport" in the CV 2 zoning is the ONLY use in the long list of permitted or conditional uses that can have a negative impact on the surrounding community. There are 187 uses listed as appropriate in the CV 2 zone. ONLY ONE, "HELIPORT" is prime facie an operation that will definitely negatively impact its neighbors in the community. Not one of the remaining 186 uses is dangerous to the surrounding community. Not one of the remaining 186 uses produces anywhere near the noise pollution in the surrounding community. And not one of the remaining 186 uses has as much negative impact on the surrounding business.

(Ref: Weber County Ordinance: Commercial Valley Zones : 18-5B Uses)

Given that the operation of a heliport has inherent and overt safety risks to the surrounding community, and given that our zoning laws have changed to permit such a use under CV 2, are we not at risk for legal liability if an accident were to occur, if we, as a county, site with little or no restrictions a heliport in a busy commercial or residential area?

The use of any piece of land as a heliport is a very specific uses. It should be conditioned on careful discussion, careful siting, and on very specific conditions, and monitoring. This is such a unique and specific use that perhaps it should fall under a completely separate zoning, such as "Airport/Heliport—AH 1"; but certainly not under the general CV 2 heading.

3- How is the change in the public interest?

and

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

The operation of a helipad or heliport, which could be permitted in any of the current CV 2 zones, is very much against the safety, health, and welfare of the Ogden Valley.

Safety Concerns

Safety concerns will be a problem for a heliport in the CV2 areas in the Ogden Valley.

Many citizens expressed concerns in the last year during the deliberations over a proposed heliport in Eden. In those public comments, 66 % were against the granting of a CUP for a heliport, and many citizens expressed safety concerns.

(Ref: minutes of OVPC meetings, Feb, 2010 and April, 2010).

There are 17 CV 2 areas currently in the Ogden Valley.
(Ref: Weber Co on line maps]

None of these areas would be a reasonable, safe, non-impacted area, and there are very few areas in Ogden Valley where there would not be serious concerns about the safety of the location of the landing zone itself.

Residents (who have no real benefit from the operation of such activities) should not have themselves and their families subjected to the risks of frequent helicopter flights, especially when those flights and the assumptions of those risks are against their wishes.

The law, as it now stands (which permits the granting of CUPs for frequent helicopter use in any CV 2 zones) may even produce legal liability issues for Weber County. The current CUP process would permit with Weber County sanction the use of an area for an activity that has a small but definitely present risk for surrounding citizens and businesses, many of which oppose that use in the first place.

Taking off and landing of helicopters in mountain valleys is prima facie an activity with inherent risks. Flying only in good weather and extensive pilot experience can mitigate these risks, but does not eliminate them. An example of those risks occurred here in Ogden Valley in 1993. In 1993, during a flight for heli-skiing to film a Marker Ski Binding commercial, the crash of a Diamond Peaks helicopter near Powder Mountain killed four people. The pilot was a decorated military veteran with extensive experience, and the weather was favorable. The risk of a serious accident is certainly small, but is finite. After the 1993 crash, the US Army rescue helicopter pilot, the US Army helicopter crew, and the FAA examiners reported that there are ALWAYS risks to helicopter flights in mountain areas. They emphasized that to minimize future risks and to maximize the margins for safety, landing zones (LZs) should always be as far away from residential areas as possible.

(Ref: Lee Schussman, MD, MSPH; Team Leader and Medical Advisor (for 20 years), Weber County Sheriff, High Angle Search and Rescue Team)

Landing zones produce risks to the surrounding communities that are not present from ANY other listed CV 2 uses. Establishing landing zones for helicopters should require a separate, very carefully planned and thought-out process; heliports should not be allowed to stay in with (and remain simply "lumped in" with) all the other 186 permitted uses in any CV 2 zone.

Noise Issues.

Noise is a very important issue. It may even be a more important issue in the Ogden Valley in the future, it is an issue that will not go away, and it will affect the residents of the valley every day that any heliport is in use. Multiple takeoffs and landings will definitely create a noise issue that will be a significant problem for many dozens of households, many businesses, and literally hundreds of Ogden Valley residents.

Helicopter noise levels can approach 100 dbI. (Report to Congress: Non Military Helicopter Urban Noise Study)

Take offs and landings each lasting three to four minutes each and each producing over 70-100 dbls (depending on the type of helicopter) will be extremely problematic for 1 ½ hours every day a heliport is in operation.

Solving noise issues once they are in place is very difficult, as was discovered in a recent issue with a CUP for the Wolf Creek Sewer Plant:

There are no state or county noise ordinances; and once the CUP is granted, the county has no authority to regulate the operation of the heliport. Generally accepted industrial noise levels are about 40-45 dbls at the property line of the operation. This was the level agreed upon by the OVPC when the Wolf Creek Sewer Improvement District plant was permitted.

(Ref: OVPC minutes—meeting for CUP)

Unexpectedly, the noise levels produced by the plant were in excess of the agreed upon levels. It was found that the noise levels from the plant were about 45 dbls at distances of ½ mile from the plant. Those levels of noise were very intrusive and posed significant problems for the county planning office and the local residents. Resolving those noise issues (from a permitted use in CV 2) required a total of two and a half years of time, hundreds of hours of citizen work, dozens of hours of Weber County Planning Staff time and effort, and thousands of dollars of expenditures and engineering work on the part of the Wolf Creek Sewer Improvement District.

(Ref: Waste Water Treatment Facility Sound Evaluations. Submitted to Lowell Peterson, Wolf Creek Sewer Improvement District. Aug. 15, 2008.)

That noise will be an issue from any heliport operation in the Ogden Valley is obvious when one considers the problems that many places in the nation are already experiencing with non-military helicopter operations. Noise issues related to heliports are already an important national issue; and national studies have been done. The statistics listed here are from a Report to Congress:

(Ref: Report to Congress: Non-Military Helicopter Urban Noise Study)

Helicopter noises were found to be much more noticeable to residents than noises from trains or fixed-wing aircraft. Sight seeing, news gathering and other non-essential helicopter use created much greater public problems (and much greater local government time, energy, and money expenditures to deal with) than any emergency or military helicopter use.

In urban studies, helicopter noise levels were recorded as the following:

500 ft from the helicopter:	90 dbl
1000 ft (0.2 mile) from the helicopter:	85 dbl
2000 ft (0.4 mile) from the helicopter:	78 dbl
5000 ft (0.95 miles) from the helicopter:	74 dbl

Over one quarter of a mile from the heliport, the reported noise levels are about the same as a Harley Davidson motorcycle revving to 2500 RPM 50 feet away.

Wisconsin, Florida, Arizona, and Connecticut have set 80 dbl at 50 feet as the loudest legal motorcycle noise that will be tolerated, and they have had to enforce those laws with \$250 fines. With every take off and with every landing a heliport will create much more noise than these limits.

This same Report to Congress documents that many different proposals have been made in different cities to mitigate the noise effects. None have proved to be effective at bridging the needs of both the communities involved and the industrial needs of the helicopter operators.

All these data indicate that the operation of a heliport in any area is a complex and controversial undertaking. Heliports in the Ogden Valley should be treated and appropriated permitted only as the very specialized use that they are. It is necessary to remove "heliport" from the CV 2 zone and to study the overall issue of heliports in the Ogden Valley carefully before permitting their use in any CV 2 zones of the Valley.

Item #3: Business Planning Issues

Some have stated that this heliport will be good for Ogden Valley businesses—that it will "create jobs".

(OVPC, Jan 2011 meeting)

There is evidence to the contrary in that many businesses would not welcome having a heliport in the backyard.

For example, in 1997, the administration of the McKay Dee Hospital helped to establish a medical practice in Eden, UT for Dr. Michael Housley. The office was located in the Eden CV2 area (in the building currently housing the Eats of Eden Restaurant.) The practice was planned and set up using resources from the McKay Dee Hospital Planning Office and the Family Practice Residency Program of McKay-Dee Hospital and the University of Utah. Had there been a heliport (instead of the existing basketball court) in the proposed location, those who worked to help establish this medical practice in Eden's CV2 zone would definitely have looked elsewhere to locate.

(Ref: John Grimma, Director of Planning, McKay-Dee Hospital. Dr Lee Schussman, and Dr H J Gardner, Directors, McKay-Dee Hospital / University of Utah Family Practice Residency Program.)

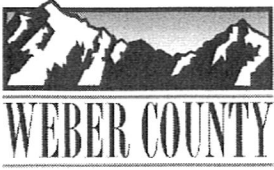
Having a noisy, wind and dust producing, potentially dangerous heliport in the "back-yard" is NOT a good way to promote the development of businesses in the Ogden Valley. A CUP for a heliport does not meet the necessary criteria of contributing to the general well being of the business community.

Community Involvement

The processes involved in granting a CUP for any heliport and the operation of any Ogden Valley heliport have the potential to be very divisive and to pit residents of Ogden Valley against those Ogden Valley businesses. How unfortunate it would be if a CUP were to be granted and if the helicopter operations so permitted were to so badly affect the local residents that Ogden Valley residents would actually come to hope that this business would fail! How much better it would be if any heliport were carefully planned so as to make it safe, non-intrusive, and properly located. Then, the Ogden Valley residents, many of whom would actually be potential customers for heli-skiing or other helicopter associated activities, could actually help support and promote that business.

We hope that the very reasons we have zoning could prevail—to balance the rights of private property owners and the greater good of the community.

Heliports should be removed from the CV 2 zoning list of uses.



**Weber County Public Works Department
Official Receipt**

Receipt Date 11-MAR-11

11:12:57 AM

Description FEE FOR TEXT AMENDMENT TO CV2 ZI

From Client DAVE HOLMSTROM/LEE SCHUSSMAN

CHECK 300

Total Received: 300

Empl Id / Receipt Nbr: SM - 20782

Signature

*** Please Retain This Receipt For Your Personal Records ***