

## Meeting Procedures

### Outline of Meeting Procedures:

- ❖ The Chair will call the meeting to order, read the opening meeting statement, and then introduce the item.
- ❖ The typical order is for consent items, old business, and then any new business.
- ❖ Please respect the right of other participants to see, hear, and fully participate in the proceedings. In this regard, anyone who becomes disruptive, or refuses to follow the outlined procedures, is subject to removal from the meeting.

### Role of Staff:

- ❖ Staff will review the staff report, address the approval criteria, and give a recommendation on the application.
- ❖ The Staff recommendation is based on conformance to the general plan and meeting the ordinance approval criteria.

### Role of the Applicant:

- ❖ The applicant will outline the nature of the request and present supporting evidence.
- ❖ The applicant will address any questions the Planning Commission may have.

### Role of the Planning Commission:

- ❖ To judge applications based upon the ordinance criteria, not emotions.
- ❖ The Planning Commission's decision is based upon making findings consistent with the ordinance criteria.

### Public Comment:

- ❖ The meeting will then be open for either public hearing or comment. Persons in support of and in opposition to the application or item for discussion will provide input and comments.
- ❖ The commission may impose time limits for comment to facilitate the business of the Planning Commission.

### Planning Commission Action:

- ❖ The Chair will then close the agenda item from any further public comments. Staff is asked if they have further comments or recommendations.
- ❖ A Planning Commissioner makes a motion and second, then the Planning Commission deliberates the issue. The Planning Commission may ask questions for further clarification.
- ❖ The Chair then calls for a vote and announces the decision.

## Commenting at Public Meetings and Public Hearings

### Address the Decision Makers:

- ❖ When commenting please step to the podium and state your name and address.
- ❖ Please speak into the microphone as the proceedings are being recorded and will be transcribed to written minutes.
- ❖ All comments must be directed toward the matter at hand.
- ❖ All questions must be directed to the Planning Commission.
- ❖ The Planning Commission is grateful and appreciative when comments are pertinent, well organized, and directed specifically to the matter at hand.

### Speak to the Point:

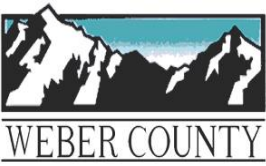
- ❖ Do your homework. Obtain the criteria upon which the Planning Commission will base their decision. Know the facts. Don't rely on hearsay and rumor.
- ❖ The application is available for review in the Planning Division office.
- ❖ Speak to the criteria outlined in the ordinances.
- ❖ Don't repeat information that has already been given. If you agree with previous comments, then state that you agree with that comment.
- ❖ Support your arguments with relevant facts and figures.
- ❖ Data should never be distorted to suit your argument; credibility and accuracy are important assets.
- ❖ State your position and your recommendations.

### Handouts:

- ❖ Written statements should be accurate and either typed or neatly handwritten with enough copies (10) for the Planning Commission, Staff, and the recorder of the minutes.
- ❖ Handouts and pictures presented as part of the record shall be left with the Planning Commission.

### Remember Your Objective:

- ❖ Keep your emotions under control, be polite, and be respectful.
- ❖ It does not do your cause any good to anger, alienate, or antagonize the group you are standing in front of.



## OGDEN VALLEY & WESTERN WEBER PLANNING COMMISSION

### JOINT WORK SESSION

**May 4, 2021**

**5:00 p.m.**

Join Zoom Meeting

<https://us02web.zoom.us/j/88472989286>

Meeting ID: 884 7298 9286

One tap mobile

13462487799,,88472989286# US (Houston)

16699006833,,88472989286# US (San Jose)

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

Training on conditional use permits from the Office of the State Property Rights Ombudsman, Marcie Jones

1. Petitions, Applications, and Public Hearings:  
Administrative items

2. ZMA 2021-02 A public hearing for consideration of a requested rezone located at approximately 3718 N Wolf Creek Resort in Eden from the O-1, FR-3, and RE-15 zone to the FR-3, O-1, and CVR-1 zone

**Staff presenter: Steve Burton**

3. Possible action on a county-initiated proposal to amend various sections of the County's subdivision ordinance to allow private lanes in certain subdivisions and provide for future public street conversion and connectivity, if needed. (Public Hearing was heard on April 27, 2021)

**Staff presenter: Charlie Ewert**

4. Possible action on a county-initiated proposal to amend various sections of the County's subdivision ordinance to allow private streets in certain subdivisions and provide for future public lanes conversion and connectivity, if needed. (Public Hearing was heard on April 27, 2021)

**Staff presenter: Charlie Ewert**

5. Public Comment for Items not on the Agenda:

6. Remarks from Planning Commissioners:

7. Planning Director Report:

8. Remarks from Legal Counsel:

Adjourn

*The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1<sup>st</sup> Floor,  
2380 Washington Blvd., Ogden, Utah.*

*&*

*Via Zoom Video Conferencing at the link listed above.*

***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***



# Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

## Synopsis

### APPLICATION INFORMATION

**Application Request:** A public hearing for consideration of a requested rezone located at approximately 3718 N Wolf Creek Resort in Eden from the O-1, FR-3, and RE-15 zone to the FR-3, O-1, and CVR-1 zone.

**Agenda Date:** Tuesday, May 4, 2021

**Applicant:** The Pointe at Wolf Creek LLC; Agent: Eric Householder

**File Number:** ZMA 2021-02

### PROPERTY INFORMATION

**Approximate Address:** 3718 N Wolf Creek Resort.

**Zoning:** The area is currently O-1, FR-3, and RE-15

**Existing Land Use:** Open Space/ Residential

**Proposed Land Use:** Open Space/ Residential/ Commercial

### ADJACENT LAND USE

<b>North:</b> Wolf Creek Resort	<b>South:</b> Wolf Creek Resort
<b>East:</b> Wolf Creek Resort	<b>West:</b> Wolf Creek Resort

### STAFF INFORMATION

**Report Presenter:** Steve Burton  
sburton@webercountyutah.gov  
801-399-8766

**Report Reviewer:** CE

## Applicable Ordinances

- § 102-5: Rezoning Procedures
- § 104-3: RE-15
- § 104-11: CVR-1
- § 104-17: FR-3
- § 104-26: O-1

## Legislative Decisions

This is a legislative matter. When the Planning Commission is acting on a legislative matter, it is acting to make a recommendation to the Board of County Commissioners. There is wide discretion in making legislative decisions. Criteria for recommendations on a legislative matter suggest compatibility with the general plan, existing ordinances, and best practices. Examples of legislative actions are general plan, zoning map, and land use code amendments.

## Summary

This item is an applicant-driven request to change approximately 2.95 acres from the O-1 to FR-3, and FR-3 to O-1. The applicant's formal narrative for the application can be found in Exhibit A attached. There are several reasons for the proposed zone changes. There are a total of two-areas in the Wolf Creek Resort to which this rezone request applies. The two areas are shown on the concept map found in Exhibit B. The applicant has included 4 other areas to be rezoned, however, the applicant has requested to wait for those other areas to be considered.

**Areas 1 and 2** are located near the Worldmark Club Condominium project, close to the 10th hole at the Wolf Creek Golf Course. The proposal in this area is to replace 2.38 acres of FR-3 with O-1 zoning where the golf course lies. The proposal will also replace 0.57 acres of O-1 with FR-3 in order to accommodate the final phasing of the Worldmark Condominium project that will be called The Pointe.

**No new density is being proposed with this request.** The intent of this zone change is to clean up the zoning boundaries to be more in line with the Master Plan.

Planning staff are offering a positive recommendation for the proposed rezone. The Planning Commission should consider planning staff's recommendation, the comments and concerns of the public, and relevant facts at hand to formulate a recommendation on this item for the County Commission's consideration. The Planning Commission's recommendation should be supported with findings of fact.

## Policy Analysis

The applicant is four entities, including The Pointe at Wolf Creek LLC, Wolf Creek Utah LLC, Wolf Creek Exchange LLC, and John L. Lewis and Melissa A. Lewis Joint Revocable Trust.

See **Figure 1** for a graphic of the rezone-related parcels in **Areas 1 and 2**.

The rezone areas 1 and 2 are located on the west side of Wolf Creek Drive, near the Worldmark Club Condominium Project. Area 1 is located just above a remaining vacant phase of the Worldmark PRUD. The Worldmark PRUD was originally approved for 160 units. 94 units have already been platted. The proposed zone change will allow the developer more flexibility in the placement of the 3 condominium buildings with 16 units each (48 units total). The developer will likely need to amend the conditional use permit for the new location of the condominium buildings.

Area 2 is currently FR-3 zoning that contains a portion of the Wolf Creek golf course. This 2.38 acres will continue to be used as a golf course, so the developer has no need for this FR-3 zoning to remain in this location. The proposed zone of O-1 is appropriate for a golf course, as golf courses are permitted in the O-1 zone. Under the proposed rezone, no new density is proposed within areas 1 and 2.

The proposed rezone on areas 1 and 2 are not out of compliance with the Wolf Creek Master Plan and Development Agreement. The Wolf Creek Master Plan map is included as Exhibit C, to demonstrate density and open space allocations. The Master Plan Map indicates that Area 2 should be zoned as open space. Given that no new density is proposed in areas 1 and 2, the proposed rezone in these areas is not contrary to the goals and objectives of the general plan.

### County Rezoning Procedure

The applicant has submitted a complete application as outlined in the County's rezoning procedures in Sec 102-5. The land use code lists the following as considerations when the Planning Commission makes a recommendation to the County Commission:

*A decision to amend the zoning map is a matter committed to the legislative discretion of the County Commission and is not controlled by any one standard. However, in making an amendment, the County Commission and Planning Commission are encouraged to consider the following factors, among other factors they deem relevant:*

- a. *Whether the proposed amendment is consistent with goals, objectives, and policies of the County's general plan.*
- b. *Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property.*
- c. *The extent to which the proposed amendment may adversely affect adjacent property.*
- d. *The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, wastewater, and refuse collection.*
- e. *Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands.*
- f. *Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.*

**Figure 1: Current Zoning map of Areas 1 and 2**





## Staff Recommendation

Staff recommends that the Planning Commission forward a positive recommendation to the County Commission for the proposed rezone of approximately 2.95 acres located at approximately 3718 N Wolf Creek Resort in Eden from the O-1 to FR-3 and FR-3 to O-1 zone, File #ZMA 2021-02.

This recommendation may come with the following findings:

1. The use helps support the 2016 Ogden Valley General Plan by implementing the pre-planned Wolf Creek village area.
2. The proposal will offer an economic benefit to the community in a manner that offers relatively minimal community impacts in comparison to other economic development possibilities.
3. The development will enhance the overall health, safety, and welfare of the community.

## Exhibits

Exhibit A: Application.

Exhibit B: Concept Development Map.

Exhibit C: Existing Master Plan Development Map

Exhibit D: Wolf Creek Open Space Map

**Weber County Zoning Map Amendment Application**  
**Wolf Creek Resort Zoning**  
March 2021

**Property Owner Contact Information**

Property Owner(s)

The Pointe at Wolf Creek LLC (22-016-0034)  
Wolf Creek Utah LLC (22-016-0098, 22-016-0068)  
Wolf Creek Exchange LLC (22-016-0079)  
John L Lewis and Melissa A Lewis Joint Revocable Trust (22-148-0014)

Mailing Address

3718 North Wolf Creek Drive  
Eden UT 84310

John Lewis

Managing Member for each property owning company and the Trustor of the Joint Revocable Trust  
801.430.1507

[john@wolfcreekresort.com](mailto:john@wolfcreekresort.com)

**Authorized Representative Contact Information**

Eric Householder

801.380.0040

[eric@thg-cs.com](mailto:eric@thg-cs.com)

**Property Information**

Project Name

Wolf Creek Resort Rezone

Current Zoning

O-1, FR-3, RE-15

Proposed Zoning

O-1, FR-3, CVR-1

Approximate Address

See attached exhibit for locations

Land Serial Number(s)

The Pointe at Wolf Creek LLC (22-016-0034)  
Wolf Creek Utah LLC (22-016-0098, 22-016-0068)  
Wolf Creek Exchange LLC (22-016-0079)  
John L Lewis and Melissa A Lewis Joint Revocable Trust (22-148-0014)

Total Acreage

13

Current Use

Golf Course, Vacant Land, Utilities

Proposed Use

Golf Course, Multifamily, Commercial, Vacant Land

**Project Narrative***Describing the project vision*

The Zoning Development Agreement (ZDA) for Wolf Creek Resort was first established with Weber County in the early 1980s. The zoning master plan has been altered and updated many times since it was originally approved. The purpose of this application is to provide land use zoning in the village core area for newly acquired property and to extend the footprint of the previously approved condos on the along the 10<sup>th</sup> hole of the Wolf Creek golf course. Also changes privately owned property in the Elkhorn Subdivision from RE-15 to O-1.

NO ADDITIONAL density is being requested with this zoning application. Only the underlying entitlements from the newly acquired RE-15 zoned property (22-016-0079 / 1.87 acres / 5.43 units) and the allocation of property rights as outlined in the Wolf Creek Resort ZDA.

The zoning exhibits show the current and the proposed changes. This application request cleans up zoning boundaries to match property lines. The breakdown of existing and requested zoning, along with the acreages, can be found on the Proposed Zoning Exhibit (Sheet Z1.1). Approximately 13 acreages of O-1, FR-3 and RE-15 zoned property will become O-1, FR-3 and CVR-1.

*How is the change in compliance with the General Plan?*

The General Plan for the upper Ogden Valley supports resort communities and clustered development in identified areas such as Wolf Creek Resort. The proposed rezone sites have been planned for commercial and multifamily development and this action puts the proper zoning in place to support these concepts.

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

Will provide the necessary land use code that the 2002 Wolf Creek ZDA intended. Within the overall master plan, this petition cleans up zoning to support the cluster development of the resort. The new proposed CVR-1 increases the commercial zoning and provides additional area for community amenities.

*How is the change in the public interest?*

Supports the Ogden Valley General Plan and is consistent with previous concepts. The development plan will provide local services and amenities to the community. The commercial component will provide local employment and provide economic development to the valley.

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

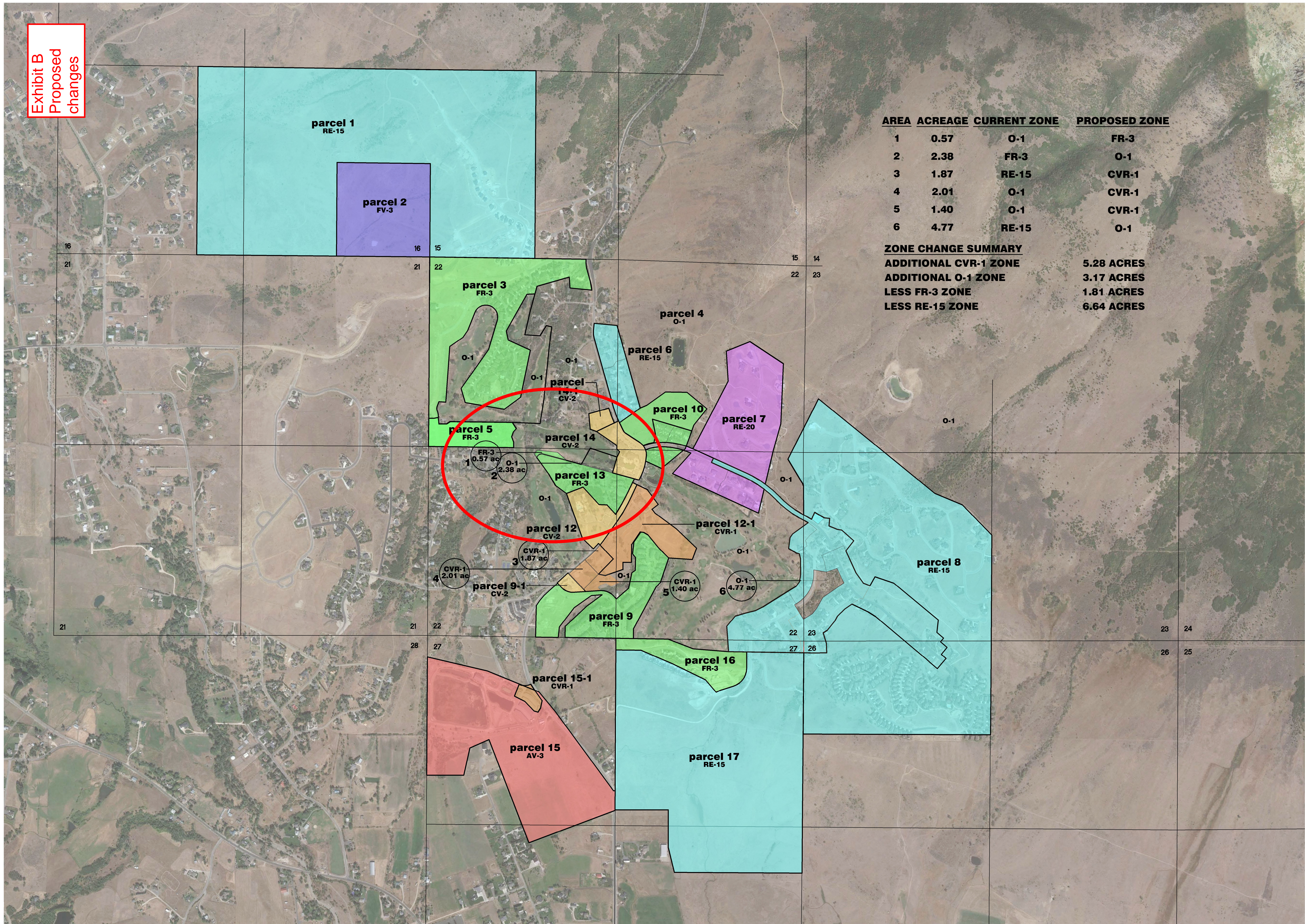
CVR-1 zoning is required to utilize the entitlements assigned to the undeveloped commercial area as identified in the 2002 ZDA for Wolf Creek Resort. This action is consistent with approved zoning in this vicinity of the resort.

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

Will provide commercial, residential and recreational opportunities that will be used by the local community. All county land use codes, building regulations, will be observed and followed.



Exhibit B  
Proposed  
changes



AREA	ACREAGE	CURRENT ZONE	PROPOSED ZONE
1	0.57	O-1	FR-3
2	2.38	FR-3	O-1
3	1.87	RE-15	CVR-1
4	2.01	O-1	CVR-1
5	1.40	O-1	CVR-1
6	4.77	RE-15	O-1

**ZONE CHANGE SUMMARY**  
**ADDITIONAL CVR-1 ZONE** 5.28 ACRES  
**ADDITIONAL O-1 ZONE** 3.17 ACRES  
**LESS FR-3 ZONE** 1.81 ACRES  
**LESS RE-15 ZONE** 6.64 ACRES

**WOLF CREEK**  
ZONING MAP

DATE:	MARCH 2021
PROJECT:	000.0000.00
DRAWN BY:	EL
REVIEW BY:	EL
VERSION:	
REVISIONS:	

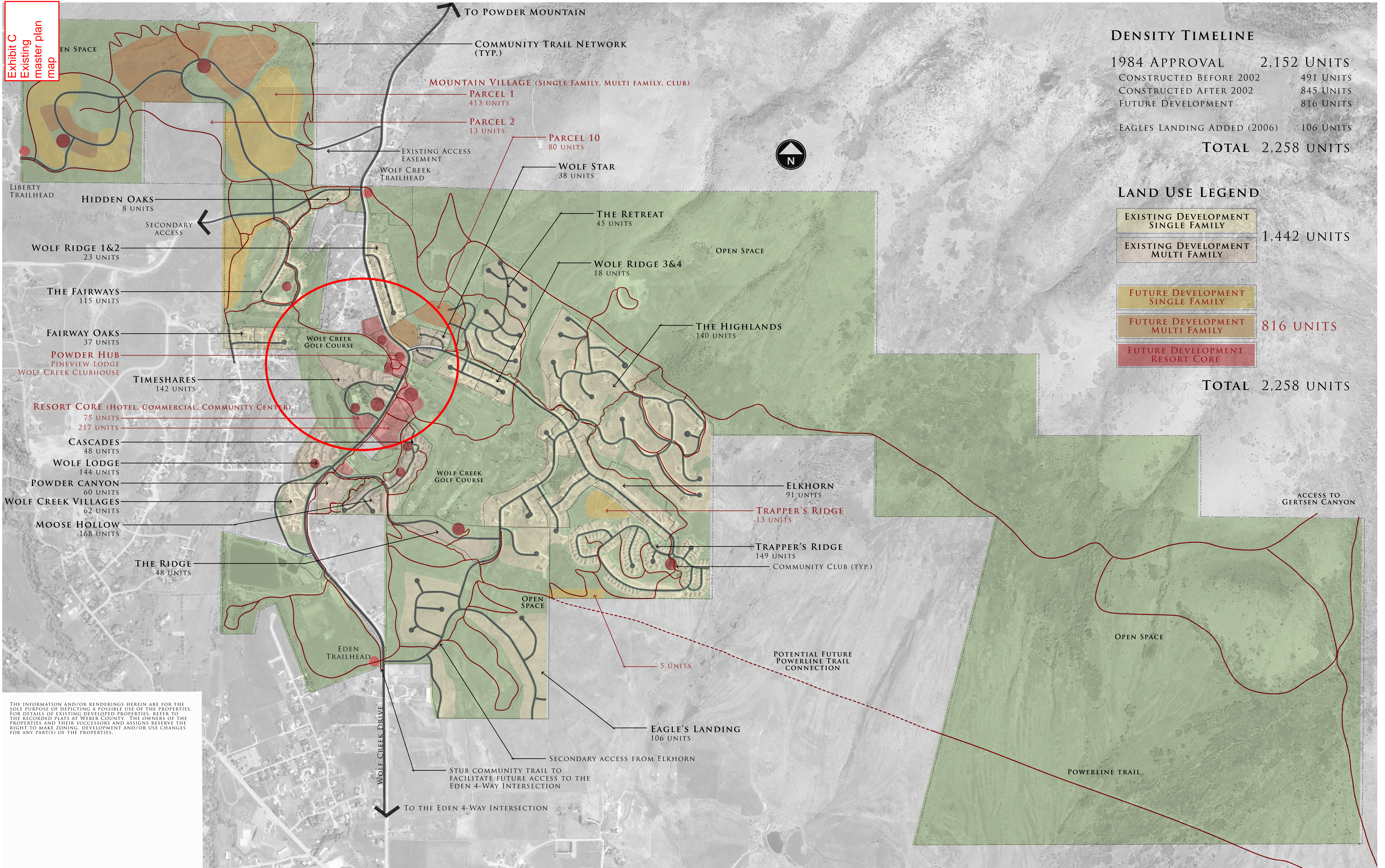
SHEET TITLE:  
**PROPOSED ZONING**

SHEET NUMBER:  
**Z1.1**



# WOLF CREEK RESORT

Exhibit C  
Existing  
master plan  
map



THE INFORMATION AND/OR RENDERINGS HEREIN ARE FOR THE SOLE PURPOSE OF DEPICTING A POSSIBLE USE OF THE PROPERTIES. FOR DETAILS OF EXISTING DEVELOPED PROPERTIES, REFER TO THE RECORDED PLATS AT WEBER COUNTY. THE OWNERS OF THE PROPERTIES AND THEIR SUCCESSORS AND ASSIGNS RESERVE THE RIGHT TO MAKE ZONING, DEVELOPMENT AND/OR USE CHANGES FOR ANY PART(S) OF THE PROPERTIES.





Exhibit D  
Existing Open  
Space map

# WOLF CREEK RESORT MASTER OPEN SPACE PLAN

LOCATED IN SECTIONS 15,16,21,22,23,24,25,26, & 27  
TOWNSHIP 7 NORTH, RANGE 1 EAST,  
SECTION 30, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT  
LAKE BASE & MERIDIAN WEBER COUNTY, UTAH

BASED ON THE APPROVED ZONING  
AGREEMENT FOR WOLF CREEK RESORT  
ENTRY # 1883524, BOOK 2276 PAGE 990  
DATED OCTOBER 22, 2002

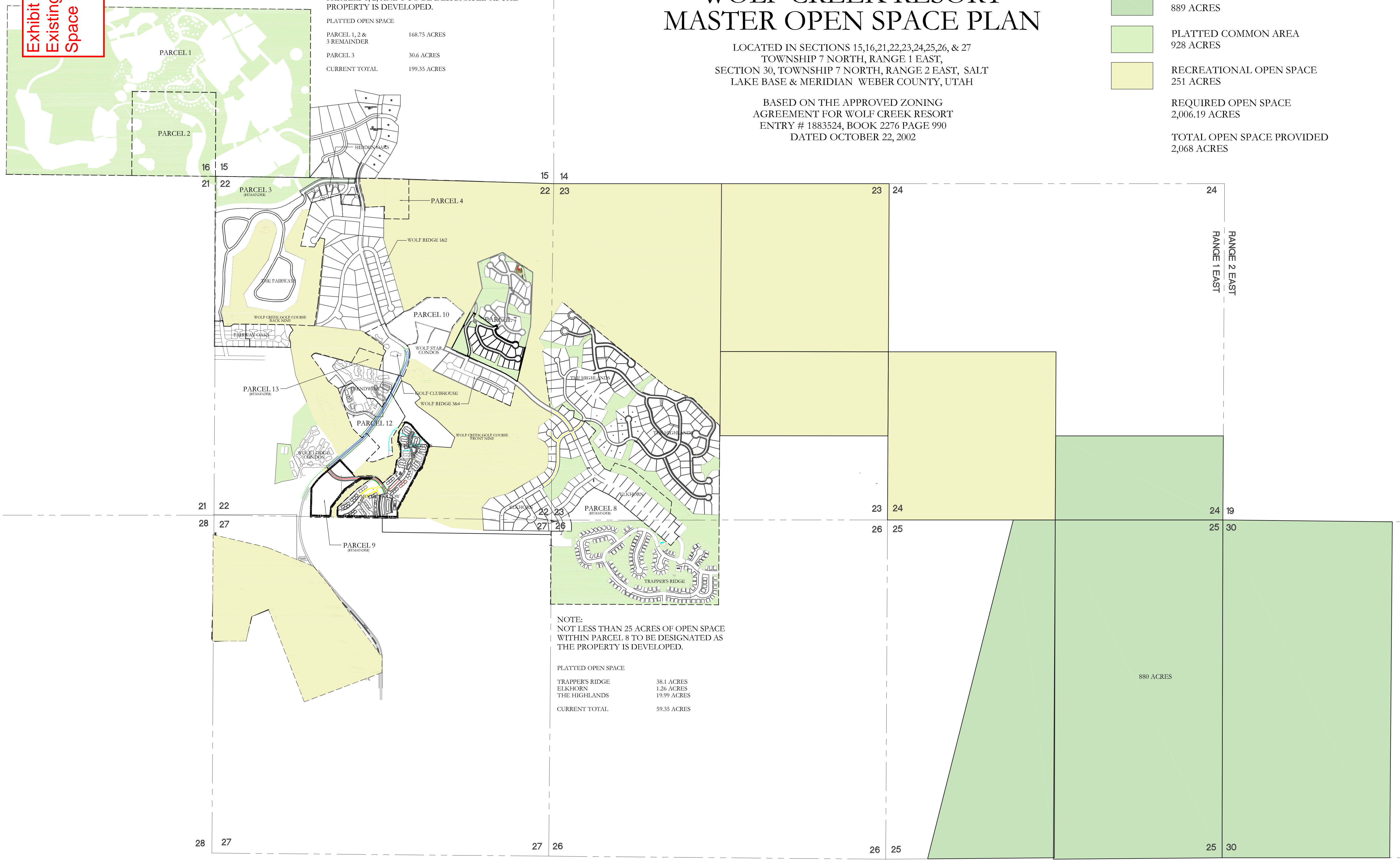
- DEDICATED OPEN SPACE  
889 ACRES
- PLATTED COMMON AREA  
928 ACRES
- RECREATIONAL OPEN SPACE  
251 ACRES
- REQUIRED OPEN SPACE  
2,006.19 ACRES
- TOTAL OPEN SPACE PROVIDED  
2,068 ACRES

NOTE:  
NOT LESS THAN 165 ACRES OF OPEN SPACE WITHIN  
PARCELS 1, 2, AND 3 TO BE DESIGNATED AS THE  
PROPERTY IS DEVELOPED.

PLATTED OPEN SPACE	
PARCEL 1, 2 & 3 REMAINDER	168.75 ACRES
PARCEL 3	30.6 ACRES
CURRENT TOTAL	199.35 ACRES

NOTE:  
NOT LESS THAN 25 ACRES OF OPEN SPACE  
WITHIN PARCEL 8 TO BE DESIGNATED AS  
THE PROPERTY IS DEVELOPED.

PLATTED OPEN SPACE	
TRAPPER'S RIDGE	38.1 ACRES
ELKHORN	1.26 ACRES
THE HIGHLANDS	19.99 ACRES
CURRENT TOTAL	59.35 ACRES



WOLF CREEK RESORT

MASTER OPEN SPACE PLAN

WEBER COUNTY UTAH

DATE:	FEBRUARY 2020
PROJECT:	
DRAWN BY:	EL
REVIEW BY:	EL
VERSION:	
REVISIONS:	
SHEET TITLE:	
SHEET NUMBER:	





## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Public hearing to discuss, take comment, and potentially take action on a county-initiated proposal to amend the subdivision ordinance to allow private streets and private lanes in certain circumstances.

**Agenda Date:** Tuesday, April 27, 2021

**Report Author:** Charlie Ewert (webercountyutah.gov)  
(801) 399-8763

### Applicable Ordinances

§ 106-2-2(a) – Street Dedication  
§ 106-2-7 – Subdivision Dedication

### Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

### Summary and Background

There are a number of applicants proposing private streets in subdivisions. One specifically, is on hold until and unless a private street ordinance is adopted.

The County Commission has put a lot of effort and thought into streets over the last year or two. An emerging theme in their considerations is that the natural evolution of streets. From wagon trails a century+ ago to pavement today, it is clear that street improvements are not being made as new development is occurring. This is leaving many streets throughout the unincorporated areas substandard and disconnected. As the population grows along one of these streets there becomes a tipping point in which the county is compelled to use eminent domain to ensure adequacy of street widths and connections.

Yet still, despite advancements in transportation methods, it seems that the beginning stages in the evolution of a street is not much different than it was a century ago for local landowners desiring to create a lot or two. These individuals find that if they have to build a full standard street to access their lot, the cost to do so may easily overwhelm any economic benefit of the subdivision.

Yet at the same time, due to an economy of scale, a developer dividing a large amount of lots at one time can realize an economy of scale in which street building does not negate the return on investment. In addition, the economy of scale enables the County to negotiate with the developer where streets should be placed, where stub streets can go, and other street configuration concerns – both current and future, because planning efficient infrastructure within the larger-scale of the development is in the developer's best interest. Yet when working with a landowner doing a subdivision with small number of lots, the limited acreage involved often times proves too challenging to ensure streets are created across parcels in multiple different ownerships in a manner that enables a quality configuration of current and future streets.

And last, public streets are expensive to maintain, yet they provide an overwhelming public good. The property tax revenue generated along residential streets with primary single-family homes does not pay for the maintenance costs of the streets. Second homes don't do much better either, but can break into a positive tax revenue when built closer together densities (less street to maintain between them). Balancing the expense of public streets with the public benefit is challenging when a more robust interconnected street network has not yet been created. The cost to operate and maintain dead-ends, stub-streets, and cul-de-sacs that don't provide any good to the general public currently may be unnecessarily wasteful. Yet, if we do not require new public street segments to extend toward

other public street segments as new development occurs, the public street network will never become interconnected. In a rural community this may not seem like a problem today, but the population is and will continue to grow, and development rights are plentiful in both the Ogden Valley and Western Weber. This means that there is an almost certain future in which both communities will cease to be rural. Planning for public street interconnectivity now, as development is proposed will provide for a future in which more aggressive and more expensive means of street connectivity retrofitting, like use of eminent domain or the tearing down of homes, is necessary.

The attached proposal offers one potential solution that is intended to resolve this multi-faceted problem. It attempts to balance the allowance for the creation of private streets in rural areas in the short-term with the probable demand for those streets to be open to public use in the long-term. It offers landowners another tool in the planning toolbox to create the development of their general choosing, whilst also preserving opportunities for future public street connectivity by the conversion of private to public when population increases demand it.

Given the above context, the attached ordinance proposal is self-explanatory. There is a provision for not just a private street, but also a private lane. We discussed the private lane idea about a year ago.

## Noticing Compliance

A public hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

## Staff Recommendation

Staff recommends that if the Planning Commission supports the allowance of private streets as a method of preserving future opportunities for public streets, that the Planning Commission recommend a positive recommendation to the County Commission for file ZTA2021-02, a proposal to allow private streets and shared private lanes in lieu of public streets in certain circumstances.

## Exhibits

- A. Proposed Ordinance

**SECTION 1:            AMENDMENT** “Sec 106-2-2 Street And Alley Widths, Cul-De-Sacs, Easements” of the Weber County County Code is hereby *amended* as follows:

AMENDMENT

Sec 106-2-2 Street ~~And Alley Widths, Cul-De-Sacs, Easements~~, Private Lane, and Alley Standards

**SECTION 2:            AMENDMENT** “Sec 106-2-2(a) Street Dedication” of the Weber County County Code is hereby *amended* as follows:

AMENDMENT

Sec 106-2-2(a) ~~Street Dedication~~ Streets Generally

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 accessibility is for the applicant to create and dedicate each street to the County as a public right-of-way and thoroughfare. However, to benefit applicants in certain circumstances while also reserving future public opportunities, creation of a private street may be allowed as long as it creates no hardship for other landowners in the area to access and develop their land, and as long as a public street is not needed in that location in the foreseen future.

- (a) **Standard street cross-sections.** All proposed streets, whether public or private, shall conform to the county street cross-section standards, unless explicitly specified otherwise.
- (b) **Public streets.** 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.
- (c) **Private streets.** A private street or shared private lane is allowed in a subdivision, as long as the recorded subdivision plat dedicates an easement to the County that reserves the possibility of converting the street or lane to a public street, at the governing body's sole option, at some point in the future. The plat shall contain the dedication language for a private street and private lane conversion easement, as provided in Section 106-7-1. Development of or along a private street or private lane shall comply with the following:
  - (1) **Conversion easement standards.** The conversion easement shall extend the length of the private street or shared private lane. The conversion easement

shall also stub to adjacent developable land or another street regardless of whether the private street or lane does. The conversion easement shall comply with the width requirements for a public street right-of-way, and be configured at a grade that will not create an unreasonable burden for future street building given typical grading and construction methods.

- (2) ***Building setback standards.*** The minimum building setbacks shall be measured from the conversion easement.
- (3) ***Permanent dead-end standards.*** A proposed non-temporary terminal (dead-end or cul-de-sac) street shall be a private street or shared private lane and is not required to provide a future public conversion easement if it is located adjacent to land whereon development or further development is very unlikely, or to which public access offers very little public benefit, as determined by the Land Use Authority. Otherwise, if a public street will provide an immediate public-access benefit, a public street is required, and if no immediate benefit is provided, a private street or lane with the conversion easement required herein may be created. If adjacent land is generally open to recreational access by the public, the applicant may choose to dedicate and install a 12-foot public easement and single-track trail in lieu of the future public right-of-way easement. The trail and trail easement shall be designed at an average grade no greater than 20 percent.
- (4) ***Geologic hazards.*** A street that traverses a geologic hazards study area shall be a private street or shared private lane, unless the hazards study, as required by Chapter 108-22, provides compelling evidence that demonstrates the hazard risk to a public street is low. The County Engineer or the Land Use Authority can require this street to be public regardless, as long as its benefit to the public outweighs the long term operations and maintenance expense caused by the hazard.
- (5) ***Construction standards.*** Unless otherwise required by the local Fire Authority or County Engineer:
  - a. ***Private street.*** A private street shall be constructed as provided in Subsection (a) of this section.
  - b. ***Private lane.*** A shared private lane shall be constructed to have a minimum right-of-way width of 24 feet with a minimum improved surface width of 20 feet and be constructed and configured to safely facilitate the turning radii and weight of the Fire Authority's largest fire apparatus. The lane shall be constructed of all-weather material, have a grade no greater than 10 percent, a clearance no less than 14.5 feet, and if a terminal lane longer than 200 feet, a fire truck turn-around at the end.
- (6) ***Ownership requirements.*** The private street or shared private lane shall be either a parcel held in common ownership by an HOA that governs all lots that gain access from it, or be an easement recorded in favor of the owners of all lots that gain access from it.
- (7) ***Number of lots allowed.*** A terminal private street or shared private lane shall have no more than 15 residences gaining access from it.

(8) **Shared private lane standards.** A shared private lane is allowed when the applicant voluntarily creates each lot to be greater than twice the minimum required lot area and lot width. The re- subdivision of any lot along a shared private lane in a manner that does not comply with this requires that the shared private lane be reconstructed by each lot owner, pursuant to the covenant specified herein, to public street standards. A shared private lane is only allowed in a residential subdivision.

(9) **Plat notes.** On the final plat:

- a. The conversion easement shall be labeled as “easement for possible future street, see note [enter note number here].” The note shall read as follows: “An easement is dedicated hereon to the governing body, which shall not be used by any other person or entity except for the governing body, if ever, for installation, operation, and maintenance of a future public street, if the governing body determines the street is necessary.”
- b. The shared private lane, if applicable, shall be labeled as “shared private lane, see note [enter note number here].” The note shall read as follows: “Pursuant to Section 106-2- 2.1(c) of the Weber County Code, the shared private lane shown on this plat is in lieu of a public or private street, and is in exchange for a 50 percent reduction in lots accessing the shared private lane. Any future additional lots gaining access from the shared private lane shall comply with this reduction or rebuild the shared private lane to public street standards.”

(10) **Recording requirements.** At the time of final plat recording, the applicant shall record the following:

- a. If not owned by an HOA, a private street or shared private lane easement recorded in favor of the owners of all lots that gain access from the lane, to be in effect in perpetuity or until all affect owners and the county agree otherwise.
- b. A deed-covenant to run with the land that provides that:
  1. The owners of all lots that gain access from the private street or shared private lane are equally responsible for operations and maintenance.
  2. An easement has been dedicated on the subdivision plat to the governing body, which shall not be used by any other person or entity except for the governing body, if ever, for installation, operation, and maintenance of a future public street, if the governing body determines the street is necessary.
  3. The landowner of record or authorized representative shall agree to pay a proportionate amount of the costs associated with developing a public street if, at any time in the future, the county deems it necessary to have the landowner replace the private street or shared private lane with a public street.

4. If for a shared private lane, that the lot area and width requirements of each lot gaining access from the shared private lane shall be double that required by the zone; or if in a cluster subdivision, the base density, as defined in Section 101-2, shall be 50% what the zone would otherwise allow.

~~Streets in year round subdivisions shall be dedicated to the county as public streets except that private streets improved to county public street standards may be permitted in a condominium development. Mountain land subdivisions in high mountain areas of the county for seasonal recreation and summer homes shall have private streets built to county private street standards for such subdivisions except that the county may require public dedication for major or loop road access purposes.~~

**SECTION 3:            AMENDMENT** “Sec 106-7-1 Subdivision Dedication” of the Weber County County Code is hereby *amended* as follows:

AMENDMENT

Sec 106-7-1 Subdivision Dedication

Each subdivision plat shall provide dedication language that clearly explains what the dedication is, to what public entity it is being dedicated, and for what purpose the dedication is intended. The actual dedication language may vary for each plat based on the circumstances of the subject property, but the following offers the minimum language required. The terms in brackets indicate a verbiage choice that shall reflect the actual circumstances of the subject property.

“We the undersigned owners of the herein described tract of land, do hereby set apart and subdivide the same into lots and [public streets, private streets or private rights-of-way] as shown hereon and name said tract [name of subdivision].”

**Dedication to the county.** “We hereby dedicate, grant and convey to Weber County, Utah, all those parts or portions of said tract of land designated as”



*For public streets.* “[public streets, the same to be used as public thoroughfares].”

*For public trails.* “[public trails, the same to be used by the public for nonmotorized transportation and recreation].”

*For county parks.* “[parks, the same to be used as public open space].”

“and do further dedicate, grant, and convey to Weber County, Utah, a perpetual right and easement over, upon, and under the lands designated herein as”

*For public utility easements.* “[public utility easements, the same to be used for the installation, maintenance, and operation of public utility service lines, storm drainage facilities, irrigation canals, or any other utility or street-related facility as authorized by the County].”

*For public drainage easement.* “[drainage easement, the same to be used for the perpetual preservation of water channels in their natural state].”

*For perpetual open space easement.* “[a perpetual open space right and easement on and over the common areas and open space areas to guarantee to Weber County that the common areas and open space areas remain open and undeveloped except for approved recreational, parking, and open space purposes].”

*For private street or private lane conversion easement.* “[an easement reserved unto the governing body, which shall not be used by any other person or entity except for the governing body, if ever, for installation, operation, and maintenance of a future public street, if the governing body determines the street is necessary].”

*Dedication to a local district.* “We hereby dedicate, grant, and convey to the [(name) park] [(name) sewer] [(name) water] District all those parts or portions of said tract of land designated as”

*For district public trails.* “[public trails, the same to be used by the public for nonmotorized transportation and recreation].”

*For district park.* “[parks, the same to be used as public open space].”

*For sewer district.* “[a sewer district parcel, the same to be used for public sanitary sewer facilities and buildings].”

*For water district.* “[water district parcel, the same to be used for public water facilities and buildings].”

*Private reservations.* “Further, we reserve unto the subdivision [lot] [unit] owners association, whose membership consists of the owners, their grantees, successors, or assigns of said tract of land, all those parts or portions of said tract of land designated as.”

*Private streets, rights of way, or common area.* “[private streets] [private rights-of-way] to provide access to the individual lots and to be maintained by the [lot] [unit] owners association] [common areas to be used for recreational and open space purposes] for the benefit of each [lot] [unit] owners association member in common with all others in the subdivision.]”

*Private land drain easement.* “[reserve unto all owners of lots upon which private land drains are constructed or which are otherwise dependent upon such land drains, an easement over such land drains for the purpose of perpetual maintenance and operation.]”

~~We the undersigned owners of the herein described tract of land, do hereby set apart and subdivide the same into lots and streets (private streets, private rights-of-way) as shown hereon and name said tract, and do hereby dedicate, grant and convey to Weber County, Utah, or its designee, all those parts or portions of said tract of land designated as parks the same to be used as public open space:(name of subdivision)[include as applicable]Public streets and parks. Dedicate to public use all those parts or portions of said tract of land designated as streets, the same to be used as public thoroughfares.Private streets, access, rights-of-way. Dedicate and reserve unto themselves, their heirs, their grantees and assigns, a right-of-way to be used in common with all others within said subdivision (and those adjoining subdivisions that may be subdivided by the undersigned owners, their successors, or assigns) on, over and across all those portions or parts of said tract of land designated on said plat as private streets (private rights-of-way) as access to the individual lots, to be maintained by a lot (unit) owners' association whose membership consists of said owners, their grantees, successors, or assigns.Common open space. Grant and convey to the subdivision lot (unit) owners association, all those parts or portions of said tract of land designated as common areas to be used for recreational and open space purposes for the benefit of each lot (unit) owners association member in common with all others in the subdivision and grant and dedicate to the county a perpetual open space right and easement on and over the common areas to guarantee to Weber County that the common areas remain open and undeveloped except for approved recreational, parking and open space purposes.Public utility, drainage and canal maintenance easements. Grant and dedicate a perpetual right and easement over, upon and under the lands designated hereof as public utility, stormwater detention ponds drainage easements and canal maintenance easement, the same to be used for the installation maintenance and operation of public utility service line, storm drainage facilities, irrigation canals or for the perpetual preservation of water channels in their natural state whichever is applicable as may be authorized by the governing authority, with no buildings or structures being erected within such easements.Private land drain easements. Grant and dedicate unto all owners of lots upon which private land drains are constructed or which are otherwise dependent upon such land drains, an easement over such land drains for the purpose of perpetual maintenance and operation.~~

(Ord. of 1956)



## Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Public hearing to discuss, take comment, and potentially take action on a county-initiated proposal to amend the subdivision ordinance to allow private streets and private lanes in certain circumstances.

**Agenda Date:** Tuesday, April 27, 2021

**Report Author:** Charlie Ewert (webercountyutah.gov)  
(801) 399-8763

### Applicable Ordinances

§ 106-2-2(a) – Street Dedication  
§ 106-2-7 – Subdivision Dedication

### Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission. Legislative decisions have wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

### Summary and Background

There are a number of applicants proposing private streets in subdivisions. One specifically, is on hold until and unless a private street ordinance is adopted.

The County Commission has put a lot of effort and thought into streets over the last year or two. An emerging theme in their considerations is that the natural evolution of streets. From wagon trails a century+ ago to pavement today, it is clear that street improvements are not being made as new development is occurring. This is leaving many streets throughout the unincorporated areas substandard and disconnected. As the population grows along one of these streets there becomes a tipping point in which the county is compelled to use eminent domain to ensure adequacy of street widths and connections.

Yet still, despite advancements in transportation methods, it seems that the beginning stages in the evolution of a street is not much different than it was a century ago for local landowners desiring to create a lot or two. These individuals find that if they have to build a full standard street to access their lot, the cost to do so may easily overwhelm any economic benefit of the subdivision.

Yet at the same time, due to an economy of scale, a developer dividing a large amount of lots at one time can realize an economy of scale in which street building does not negate the return on investment. In addition, the economy of scale enables the County to negotiate with the developer where streets should be placed, where stub streets can go, and other street configuration concerns – both current and future, because planning efficient infrastructure within the larger-scale of the development is in the developer's best interest. Yet when working with a landowner doing a subdivision with small number of lots, the limited acreage involved often times proves too challenging to ensure streets are created across parcels in multiple different ownerships in a manner that enables a quality configuration of current and future streets.

And last, public streets are expensive to maintain, yet they provide an overwhelming public good. The property tax revenue generated along residential streets with primary single-family homes does not pay for the maintenance costs of the streets. Second homes don't do much better either, but can break into a positive tax revenue when built closer together densities (less street to maintain between them). Balancing the expense of public streets with the public benefit is challenging when a more robust interconnected street network has not yet been created. The cost to operate and maintain dead-ends, stub-streets, and cul-de-sacs that don't provide any good to the general public currently may be unnecessarily wasteful. Yet, if we do not require new public street segments to extend toward

other public street segments as new development occurs, the public street network will never become interconnected. In a rural community this may not seem like a problem today, but the population is and will continue to grow, and development rights are plentiful in both the Ogden Valley and Western Weber. This means that there is an almost certain future in which both communities will cease to be rural. Planning for public street interconnectivity now, as development is proposed will provide for a future in which more aggressive and more expensive means of street connectivity retrofitting, like use of eminent domain or the tearing down of homes, is necessary.

The attached proposal offers one potential solution that is intended to resolve this multi-faceted problem. It attempts to balance the allowance for the creation of private streets in rural areas in the short-term with the probable demand for those streets to be open to public use in the long-term. It offers landowners another tool in the planning toolbox to create the development of their general choosing, whilst also preserving opportunities for future public street connectivity by the conversion of private to public when population increases demand it.

Given the above context, the attached ordinance proposal is self-explanatory. There is a provision for not just a private street, but also a private lane. We discussed the private lane idea about a year ago.

## Noticing Compliance

A public hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 and UCA §17-27a-502 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

## Staff Recommendation

Staff recommends that if the Planning Commission supports the allowance of private streets as a method of preserving future opportunities for public streets, that the Planning Commission recommend a positive recommendation to the County Commission for file ZTA2021-02, a proposal to allow private streets and shared private lanes in lieu of public streets in certain circumstances.

## Exhibits

- A. Proposed Ordinance

**SECTION 1: AMENDMENT** “Sec 106-2-2 Street And Alley Widths, Cul-De-Sacs, Easements” of the Weber County County Code is hereby *amended* as follows:

AMENDMENT

Sec 106-2-2 Street ~~And Alley Widths, Cul-De-Sacs, Easements~~, Private Lane, and Alley Standards

**SECTION 2: AMENDMENT** “Sec 106-2-2(a) Street Dedication” of the Weber County County Code is hereby *amended* as follows:

AMENDMENT

Sec 106-2-2(a) ~~Street Dedication~~ Streets Generally

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 accessibility is for the applicant to create and dedicate each street to the County as a public right-of-way and thoroughfare. However, to benefit applicants in certain circumstances while also reserving future public opportunities, creation of a private street may be allowed as long as it creates no hardship for other landowners in the area to access and develop their land, and as long as a public street is not needed in that location in the foreseen future.

- (a) **Standard street cross-sections.** All proposed streets, whether public or private, shall conform to the county street cross-section standards, unless explicitly specified otherwise.
- (b) **Public streets.** 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.
- (c) **Private streets.** A private street or shared private lane is allowed in a subdivision, as long as the recorded subdivision plat dedicates an easement to the County that reserves the possibility of converting the street or lane to a public street, at the governing body's sole option, at some point in the future. The plat shall contain the dedication language for a private street and private lane conversion easement, as provided in Section 106-7-1. Development of or along a private street or private lane shall comply with the following:
  - (1) **Conversion easement standards.** The conversion easement shall extend the length of the private street or shared private lane. The conversion easement

shall also stub to adjacent developable land or another street regardless of whether the private street or lane does. The conversion easement shall comply with the width requirements for a public street right-of-way, and be configured at a grade that will not create an unreasonable burden for future street building given typical grading and construction methods.

- (2) **Building setback standards.** The minimum building setbacks shall be measured from the conversion easement.
- (3) **Permanent dead-end standards.** A proposed non-temporary terminal (dead-end or cul-de-sac) street shall be a private street or shared private lane and is not required to provide a future public conversion easement if it is located adjacent to land whereon development or further development is very unlikely, or to which public access offers very little public benefit, as determined by the Land Use Authority. Otherwise, if a public street will provide an immediate public-access benefit, a public street is required, and if no immediate benefit is provided, a private street or lane with the conversion easement required herein may be created. If adjacent land is generally open to recreational access by the public, the applicant may choose to dedicate and install a 12-foot public easement and single-track trail in lieu of the future public right-of-way easement. The trail and trail easement shall be designed at an average grade no greater than 20 percent.
- (4) **Geologic hazards.** A street that traverses a geologic hazards study area shall be a private street or shared private lane, unless the hazards study, as required by Chapter 108-22, provides compelling evidence that demonstrates the hazard risk to a public street is low. The County Engineer or the Land Use Authority can require this street to be public regardless, as long as its benefit to the public outweighs the long term operations and maintenance expense caused by the hazard.
- (5) **Construction standards.** Unless otherwise required by the local Fire Authority or County Engineer:
  - a. **Private street.** A private street shall be constructed as provided in Subsection (a) of this section.
  - b. **Private lane.** A shared private lane shall be constructed to have a minimum right-of-way width of 24 feet with a minimum improved surface width of 20 feet and be constructed and configured to safely facilitate the turning radii and weight of the Fire Authority's largest fire apparatus. The lane shall be constructed of all-weather material, have a grade no greater than 10 percent, a clearance no less than 14.5 feet, and if a terminal lane longer than 200 feet, a fire truck turn-around at the end.
- (6) **Ownership requirements.** The private street or shared private lane shall be either a parcel held in common ownership by an HOA that governs all lots that gain access from it, or be an easement recorded in favor of the owners of all lots that gain access from it.
- (7) **Number of lots allowed.** A terminal private street or shared private lane shall have no more than 15 residences gaining access from it.



(8) **Shared private lane standards.** A shared private lane is allowed when the applicant voluntarily creates each lot to be greater than twice the minimum required lot area and lot width. The re- subdivision of any lot along a shared private lane in a manner that does not comply with this requires that the shared private lane be reconstructed by each lot owner, pursuant to the covenant specified herein, to public street standards. A shared private lane is only allowed in a residential subdivision.

(9) **Plat notes.** On the final plat:

- a. The conversion easement shall be labeled as “easement for possible future street, see note [enter note number here].” The note shall read as follows: “An easement is dedicated hereon to the governing body, which shall not be used by any other person or entity except for the governing body, if ever, for installation, operation, and maintenance of a future public street, if the governing body determines the street is necessary.”
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(10) **Recording requirements.** At the time of final plat recording, the applicant shall record the following:

- a. If not owned by an HOA, a private street or shared private lane easement recorded in favor of the owners of all lots that gain access from the lane, to be in effect in perpetuity or until all affect owners and the county agree otherwise.
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**Dedication to the county.** “We hereby dedicate, grant and convey to Weber County, Utah, all those parts or portions of said tract of land designated as”

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*For public trails.* “[public trails, the same to be used by the public for nonmotorized transportation and recreation].”

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“and do further dedicate, grant, and convey to Weber County, Utah, a perpetual right and easement over, upon, and under the lands designated herein as”

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*For district public trails.* “[public trails, the same to be used by the public for nonmotorized transportation and recreation].”

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(Ord. of 1956)