

OGDEN VALLEY PLANNING COMMISSION

PLANNING REGULAR AGENDA

May 03, 2016
5:00 p.m.

Pledge of Allegiance

Roll Call:

1. Petitions, Applications,
And Public Hearings:
 - 1.1. UVA032815: Consideration and action on a request for final approval of Aspen Falls Cluster Subdivision 1st Amendment, located at approximately 4100 North River Drive in the Agricultural Valley (AV-3) Zone (Nate Boswell, Applicant)
2. Remarks from Planning Commissioners
3. Planning Director Report
4. Remarks from Legal Counsel
5. Adjourn

The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah. Work Session will be held in the Breakout Room. No Pre-Meeting will be held.

Please enter the building through the front door on Washington Blvd. if arriving to the meeting after 5:00 p.m.

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791



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 convert 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

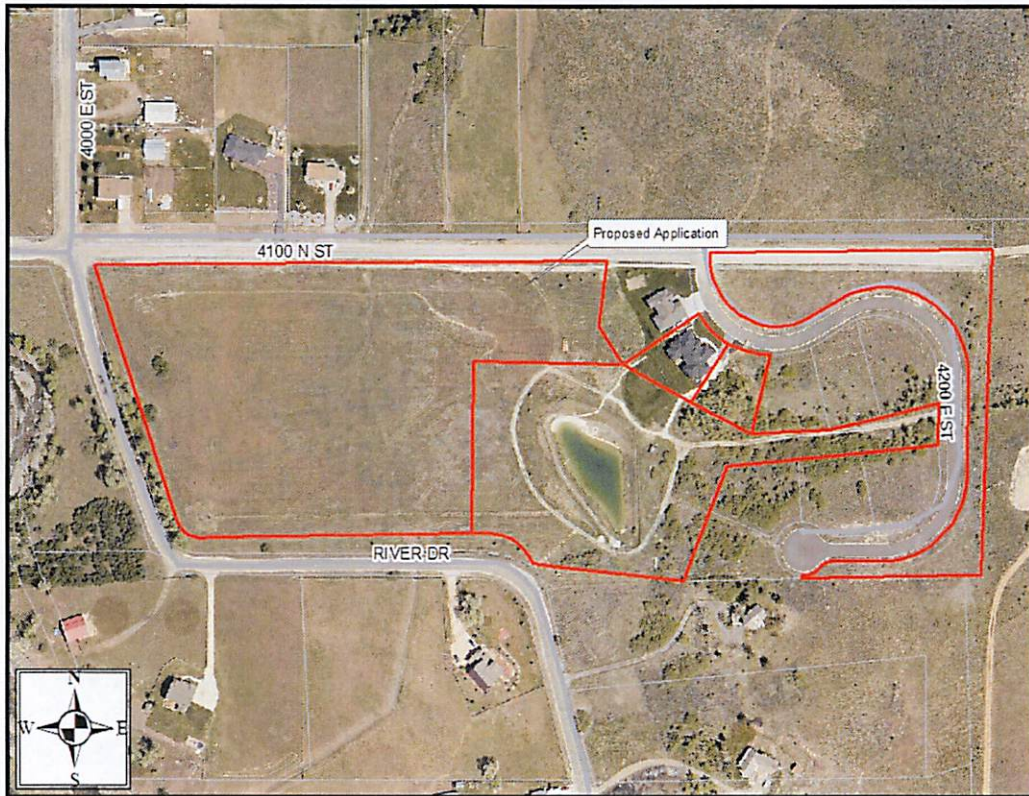
Staff Recommendation

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.

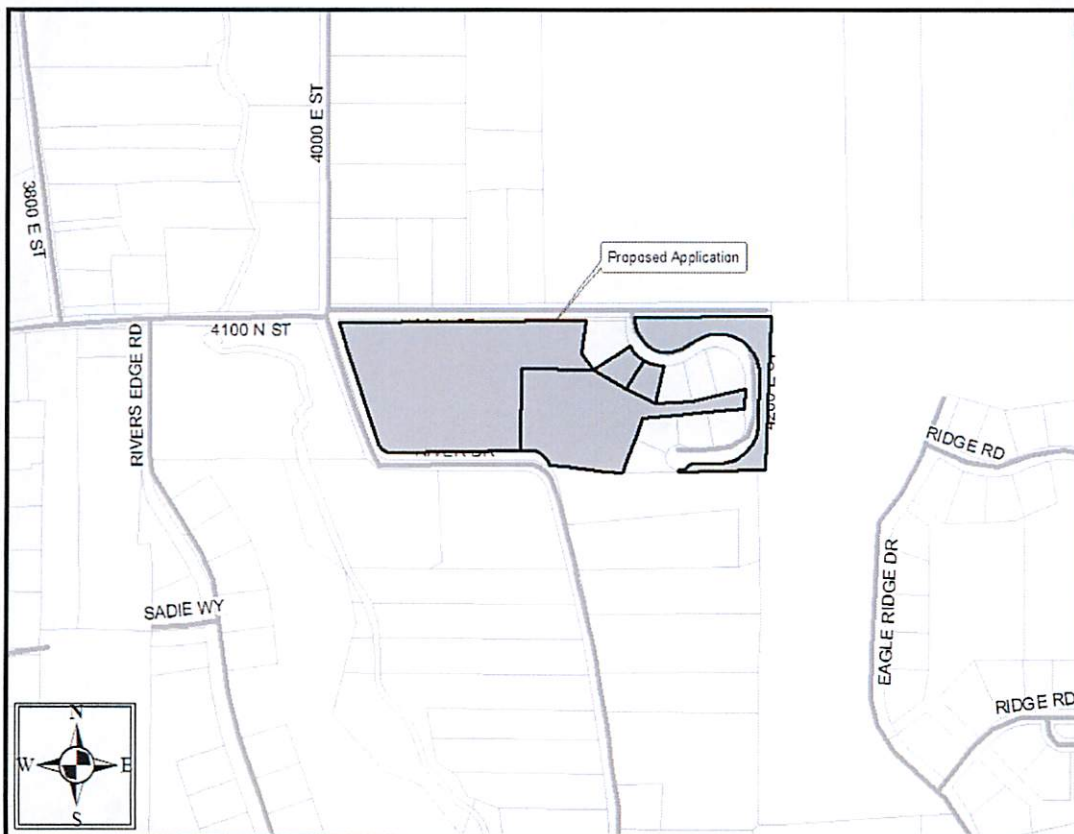
Exhibits

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

Map 1



Map 2

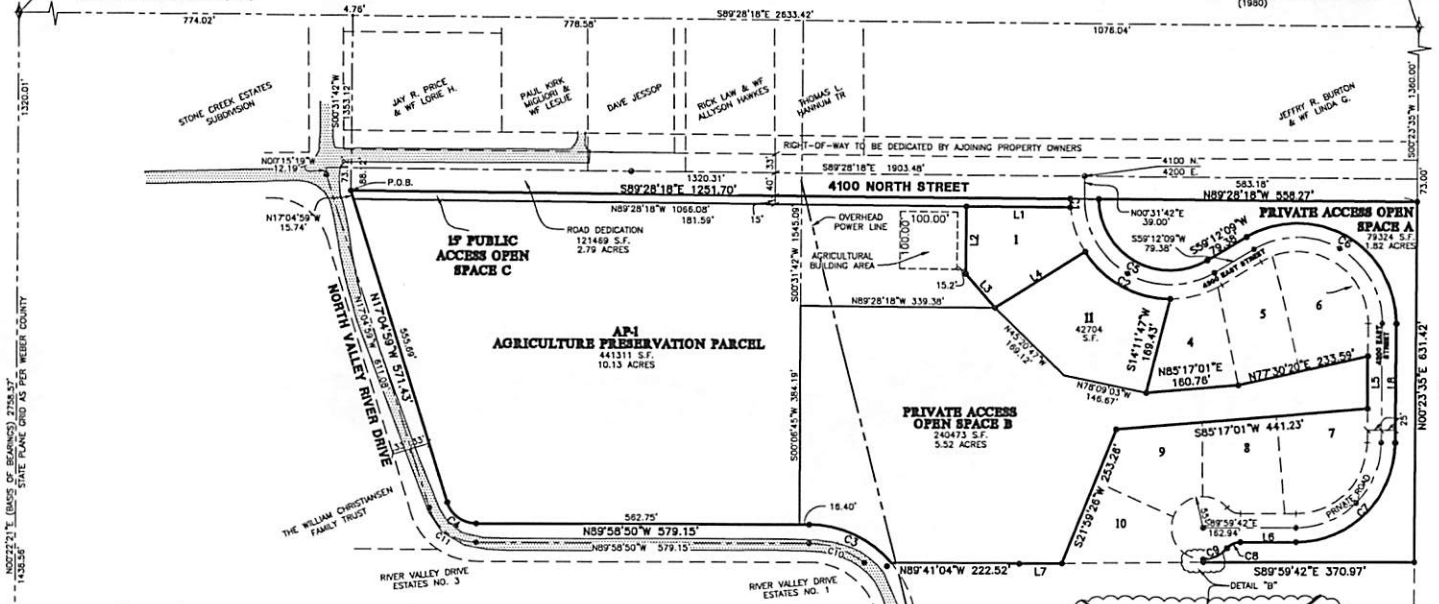


Aspen Falls Cluster Subdivision 1st Amendment

PART OF THE NORTHWEST QUARTER OF SECTION 21, T.7N., R.1E., S.L.B.&M., U.S. SURVEY
WEBER COUNTY, UTAH
FEBRUARY, 2016

NORTHWEST CORNER OF SECTION 21,
T.7N., R.1E., S.L.B.&M., U.S. SURVEY.
FOUND WEBER COUNTY BRASS CAP
MONUMENT IN GOOD CONDITION. (1981)

NORTH QUARTER CORNER OF
SECTION 21, T.7N., R.1E.,
S.L.B.&M., U.S. SURVEY. FOUND
WEBER COUNTY BRASS CAP
MONUMENT IN GOOD CONDITION.
(1980)

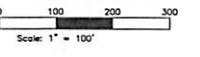


N0222'11\"

E001'23\"

Legend

- SECTION CORNER
- LOCATION OF CENTERLINE STREET
- SET 3/8" REBAR AND PLASTIC CAP STAMPED "REEVE & ASSOCIATES"
- ⊙ TEST PIT
- BOUNDARY LINE
- LOT LINE
- - - ADJOINING PROPERTY
- - - EASEMENTS
- - - ROAD CENTER LINE
- - - SECTION LINE
- P.U.E. = PUBLIC UTILITY EASEMENT
- GRAVEL BIKE/WALKING PATH



Narrative

THE PURPOSE OF THIS PLAT IS TO DIVIDE THIS PROPERTY INTO LOTS AND STREETS. NORTH LINE WAS HELD AT RECORD OF 1320 FROM THE NORTH LINE OF THE QUARTER. THE EAST LINE WAS HELD TO THE EAST LINE OF THE QUARTER. THE SOUTH LINE FOLLOWS AN EXISTING LONG ESTABLISHED FENCELINE. THE WEST IS HELD TO THE CENTERLINE OF NORTH RIVER DRIVE. ALL BOUNDARY CORNERS AND REAR LOT CORNERS WERE SET WITH A 3/8" REBAR AND PLASTIC CAP STAMPED "REEVE & ASSOCIATES". ALL FRONT LOT CORNERS WERE SET WITH A LEAD PLUG IN THE TOP BACK OF CURB AT THE EXTENSION OF THE SIDE LOT LINES.

Agricultural Notice

"AGRICULTURE IS THE PREFERRED USE IN THE AGRICULTURAL ZONES. AGRICULTURAL OPERATIONS AS SPECIFIED IN THE ZONING ORDINANCE FOR A PARTICULAR ZONE ARE PERMITTED AT ANY TIME INCLUDING THE OPERATION OF FARM MACHINERY AND NOT ALLOWED AGRICULTURAL USE SHALL BE SUBJECT TO RESTRICTION ON THE BASIS THAT IT INTERFERES WITH ACTIVITIES OF FUTURE RESIDENTS OF THIS SUBDIVISION." (AND. ORD. 13-02, JANUARY 26, 1982; ORD. #2002-3, MARCH 05, 2002)

Basis of Bearings

THE BASIS OF BEARINGS FOR THIS PLAT IS THE SECTION LINE BETWEEN THE WEST QUARTER CORNER AND THE NORTHWEST CORNER OF SECTION 21, T.7N., R.1E., S.L.B.&M., U.S. SURVEY. SHOWN HEREON AS N0222'21\"

Line Table

LINE	BEARING	DISTANCE
1	N89°28'18\"	1093.48'
2	S89°31'42\"	117.85'
3	N46°41'04\"	108.10'
4	S89°28'18\"	1076.04'
5	S89°28'18\"	1251.70'
6	S89°28'18\"	1066.08'
7	S89°28'18\"	27.94'
8	S89°28'18\"	74.89'
9	N022'23'51\"	209.33'

Curve Table

#	RADIUS	ARC LENGTH	CHORD LENGTH	ANGULAR CHORD BEARING	DELTA	
1	1175.00'	14.98'	14.98'	7.50'	S89°15'08\"	4°14'19\"
2	1175.00'	17.11'	16.81'	8.91'	S89°33'45\"	4°14'19\"
3	1175.00'	18.27'	17.81'	9.71'	S89°33'45\"	4°14'19\"
4	1175.00'	23.76'	23.42'	12.74'	S89°12'08\"	12°11'12\"
5	1175.00'	23.76'	23.42'	12.74'	S89°12'08\"	12°11'12\"
6	30.00'	25.01'	25.31'	13.89'	S89°09'24\"	48°40'47\"
7	30.00'	47.19'	45.79'	25.18'	S84°54'19\"	48°40'47\"
8	1015.41'	103.48'	101.58'	53.76'	N02°49'07\"	17°19'50\"
9	1185.51'	108.79'	101.60'	63.18'	N53°31'55\"	17°23'51\"

WEST QUARTER CORNER OF SECTION 21,
T.7N., R.1E., S.L.B.&M., U.S. SURVEY.
FOUND WEBER COUNTY BRASS CAP
MONUMENT IN GOOD CONDITION. (1975)

Surveyor's Certificate

I, TREVOR J. HATCH, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH IN ACCORDANCE WITH CHAPTER 22, PUBLIC PERFORMANCE OF THE ENGINEERS AND LAND SURVEYORS ACT, AND THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THIS PLAT, AND THAT THIS PLAT OF ASPEN FALLS CLUSTER SUBDIVISION 1ST AMENDMENT IN WEBER COUNTY, UTAH, HAS BEEN DRAWN CORRECTLY TO THE DESIGNATED SCALE AND IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LANDS INCLUDED IN SAID SUBDIVISION, BASED UPON DATA COMPILED FROM RECORDS IN THE WEBER COUNTY RECORDERS' OFFICE FROM SAID SURVEY MADE BY ME OR THE ORIGINAL. I FURTHER CERTIFY THAT THE REQUIREMENTS OF ALL APPLICABLE STATUTES AND ORDINANCES OF WEBER COUNTY CONCERNING ZONING REQUIREMENTS REGARDING LOT MEASUREMENTS HAVE BEEN COMPLIED WITH.

SIGNED THIS _____ DAY OF _____, 20____.

8031945
UTAH LICENSE NUMBER

TREVOR J. HATCH
STATE OF UTAH

Owners Dedication and Certification

WE, THE UNDERSIGNED OWNERS OF THE HEREIN DESCRIBED TRACT OF LAND, DO HEREBY SET APART AND SUBSIDIZE THE SAME INTO LOTS AND STREETS AS SHOWN ON THE PLAT AND NAME SAID TRACT ASPEN FALLS CLUSTER SUBDIVISION 1ST AMENDMENT, AND DO HEREBY DEDICATE AND RESERVE UNTO OURSELVES, 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 WHATEVER MEMBERSHIP CONSISTS OF OWNERS, THEIR GRANTEES, SUCCESSORS, OR ASSIGNS AND ALSO TO GRANT AND CONVEY TO THE SUBDIVISION LOT (UNIT) OWNERS ASSOCIATION, ALL THOSE PARTS OR PORTIONS OF SAID TRACT OF LAND DESIGNATED AS COMMON AREAS AND AGRICULTURAL PRESERVATION EASEMENTS 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 WEBER COUNTY A PERPETUAL OPEN SPACE RIGHT AND EASEMENT ON AND OVER THE COMMON AREAS TO GUARANTEE TO WEBER COUNTY THAT THE COMMON AREAS AND AGRICULTURAL PRESERVATION EASEMENTS REMAIN OPEN AND UNDEVELOPED EXCEPT FOR APPROVED RECREATIONAL, PARKING AND OPEN SPACE PURPOSES AND ALSO TO DEDICATE, GRANT AND CONVEY A PERPETUAL OPEN SPACE RIGHT AND AGRICULTURAL PRESERVATION EASEMENT TO THE SUBDIVISION LOT OWNERS ASSOCIATION, UPON ALL THOSE PARTS OR PORTIONS OR TRACT(S) OF LAND DESIGNATED AS AGRICULTURAL PRESERVATION PARCEL(S). SAID EASEMENT TO BE USED UNTO GUARANTEE TO THE LOT OWNERS ASSOCIATION THAT THE AGRICULTURAL PRESERVATION PARCEL(S) REMAINS OPEN AND UNDEVELOPED EXCEPT FOR APPROVED AGRICULTURAL OPEN SPACE PURPOSES AND NOT FOR RIGHT OF PHYSICAL USE IN ANY WAY. DECEPT TO BE USED AND MAINTAINED BY THE OWNER OF SAID PARCEL(S) FOR APPROVED AGRICULTURAL PURPOSES, FOR THE BENEFIT OF EACH LOT OWNERS ASSOCIATION MEMBER IN COMMON WITH ALL OTHERS IN THE SUBDIVISION, AND FURTHER DEDICATE, GRANT AND CONVEY TO WEBER COUNTY THE SAME PERPETUAL OPEN SPACE RIGHT AND AGRICULTURAL PRESERVATION EASEMENT UPON SAID AGRICULTURAL PRESERVATION PARCEL(S) TO GUARANTEE TO WEBER COUNTY THAT THE AGRICULTURAL OPEN SPACE REMAINS OPEN AND UNDEVELOPED EXCEPT FOR APPROVED AGRICULTURAL OPEN SPACE PURPOSES AND ALSO TO GRANT AND DEDICATE A PERPETUAL RIGHT AND EASEMENT UPON AND OVER THE COMMON AREAS AND THE DESIGNATED HEREON AS PUBLIC UTILITY, STORM WATER DETENTION PONDS DRAINAGE EASEMENTS AND CANAL MAINTENANCE EASEMENT, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES, STORM WATER FACILITIES, IRRIGATION CANALS OR FOR THE PERPETUAL PRESERVATION OF WATER CHANNELS IN THEIR NATURAL STATE WHICH ARE AS APPLICABLE AS AUTHORIZED BY THE GOVERNING AUTHORITY, WITH NO BUILDINGS OR STRUCTURES BEING ERRECTED WITHIN SUCH EASEMENTS.

SIGNED THIS _____ DAY OF _____, 20____.

Acknowledgment

STATE OF UTAH COUNTY OF _____)
ON _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, (AND) _____ BEING BY ME DULY SWORN, ACKNOWLEDGED TO ME THEY ARE _____ AND _____ OF SAID CORPORATION AND THAT THEY SIGNED THE ABOVE OWNER'S DEDICATION AND CERTIFICATION FREELY, VOLUNTARILY, AND IN BEHALF OF SAID CORPORATION FOR THE PURPOSES THEREIN MENTIONED.

COMMISSION EXPIRES _____ NOTARY PUBLIC

Project Info

Surveyor: T. HATCH
Designer: D. GAVE
Begin Date: 2-10-2016
Name: ASPEN FALLS CLUSTER SUBDIVISION 1ST AMENDMENT
Number: 2012-01
Revision:
Checked:

100 CHAMBER STREET SUITE 110
SALT LAKE CITY, UTAH 84103
PHONE: 313.3333 FAX: 313.3333
WWW.REEVEANDASSOCIATES.COM

Webster County Planning Commission Approval

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT WAS DULY APPROVED BY THE WEBER COUNTY PLANNING COMMISSION.
SIGNED THIS _____ DAY OF _____, 20____.

CHAIRMAN, WEBER COUNTY PLANNING COMMISSION

Webster County Engineer

I HEREBY CERTIFY THAT THE REQUIRED PUBLIC PERFORMANCE STANDARDS AND DRAWINGS FOR THIS SUBDIVISION CONFORM WITH THE COUNTY STANDARDS AND THE AMOUNT OF THE FINANCIAL GUARANTEE IS SUFFICIENT FOR THE INSTALLATION OF THESE IMPROVEMENTS.

SIGNED THIS _____ DAY OF _____, 20____.

TITLE

Webster County Commission Acceptance

THIS IS TO CERTIFY THAT THIS SUBDIVISION PLAT, THE DEDICATION OF STREETS AND OTHER PUBLIC WAYS AND FINANCIAL GUARANTEE OF PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION, THEREON ARE HEREBY APPROVED AND ACCEPTED BY THE COMMISSIONERS OF WEBER COUNTY, UTAH.
SIGNED THIS _____ DAY OF _____, 20____.

TITLE

Webster County Surveyor

I HEREBY CERTIFY THAT THE WEBER COUNTY SURVEYOR'S OFFICE HAS REVIEWED THIS PLAT FOR MATHEMATICAL CORRECTNESS, SECTION CORNER DATA, AND FOR HARMONY WITH LINES AND MONUMENTS ON RECORD IN COUNTY OFFICES. THE APPROVAL OF THIS PLAT BY THE WEBER COUNTY SURVEYOR DOES NOT RELIEVE THE LICENSED LAND SURVEYOR WHO EXECUTED THIS PLAT FROM THE RESPONSIBILITIES AND/OR LIABILITIES ASSOCIATED THEREWITH.
SIGNED THIS _____ DAY OF _____, 20____.

TITLE

Webster County Attorney

I HAVE EXAMINED THE FINANCIAL GUARANTEE AND OTHER DOCUMENTS ASSOCIATED WITH THIS SUBDIVISION PLAT, AND IN MY OPINION THEY CONFORM WITH THE COUNTY ORDINANCE APPLICABLE THEREON AND NOW IN FORCE AND EFFECT.
SIGNED THIS _____ DAY OF _____, 20____.

TITLE

Webster-Morgan Health Department

I HEREBY CERTIFY THAT THE SOLE PERCOLATION RATES, AND SITE CONDITIONS FOR THIS SUBDIVISION HAVE BEEN INVESTIGATED BY THIS OFFICE AND ARE APPROVED FOR ON-SITE WASTEWATER DISPOSAL SYSTEMS.
SIGNED THIS _____ DAY OF _____, 20____.

Webster County Recorder
Deputy

Webster County Recorder

Entry No. _____ Fee Paid _____
Filed For Record _____
At _____ in Book _____
Of The Official Records, Page _____
Recorded For: _____

Webster County Recorder
Deputy

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.