



PLANNING MEETING AGENDA

January 6, 2015
5:00 p.m.

Pledge of Allegiance

Roll Call:

1. **Minutes:** Approval of the October 28, 2014 and December 02, 2014 meeting minutes
2. **Consent Agenda:**
 - 2.1. **CUP 2014-33** Consideration and action for approval of a conditional use permit for a golf cart storage building located at 3844 North Wolf Creek Drive within the Open Space-1 (O-1) Zone. (Wolf Creek Utah LLC, Applicant; John Lewis, Agent)
 - 2.2. **CUP 2014-34** Consideration and action for approval of a conditional use permit for a classic/vintage car dealership known as Blacksmith Garage in the Blacksmith Village located at 2143 North 5500 East Eden, UT within the Commercial Valley-2 (CV-2) Zone. (Horseshoe LLC, Applicant; Shawn Clegg, Agent)
3. **Petitions, Applications and Public Hearings**
 - 3.1. **Administrative Items**
 - a. **Old Business**
 1. **CUP 2014-29** Consideration and action on a Conditional Use Permit (CUP) application for a condominium project including lockout rooms and allowance to exceed the required 25 feet in building height located at 3567 Nordic Valley Way in Eden, in the Commercial Valley Resort-1 (CVR-1) Zone (Skyline Mountain Base, LLC, Applicant)
4. **Public Comment for Items not on the Agenda**
5. **Remarks from Planning Commissioners**
6. **Report of the Planning Director**
7. **Adjourn to Convene a Work Session**
 - WS1. **DISCUSSION:** Ordinance Revision: Title 108, Standards, Chapter 12, Noncomplying Structures and Noncomplying Uses/Parcels
 - WS2. **DISCUSSION:** Weber County Land Use Code Revision Process: Main Use, Accessory Use, Main Building, and Accessory Building
 - WS3. **DISCUSSION:** Weber County Land Use Code Revision Process: Conditional Use Standards
 - WS4. **DISCUSSION:** Weber County Land Use Code Revision Process: Land Use Table

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. A pre-meeting will be held in Room 108 beginning at 4:30 p.m. – No decisions are made in this meeting



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

Minutes of the Ogden Valley Planning Commission Regular meeting held on October 28, 2014, in the Weber County Commission Chambers, commencing at 5:00 p.m.

Present: Ann Miller, Vice Chair; Greg Graves, Will Haymond, Laura Warburton, Kevin Parson, John Howell

Absent/Excused: Pen Hollist

Staff Present: Sean Wilkinson, Planning Director; Scott Mendoza, Principle Planner, Charlie Ewert, Principle Planner; Ronda Kippen, Planner; Dustin Parmley, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

Vice Chair Miller asked if any member had ex parte communications to declare. No ex parte communications were declared.

1. Presentation

1.1. Report on Community Input for Future Development of Wolf Creek – Gary and Jan Fullmer

Jan Fullmer, who resides in Eden, said this is follow-up from the Planning Commission meeting on Jun 3, 2014 when a request was made to amend the Wolf Creek 2002 Development Agreement. At that time the Planning Commission had voted 6-0 to deny amending the agreement and the Planning Commission had indicated that the communities within and around Wolf Creek are share holders just as much as the five individuals who were here requesting an amendment. We volunteered to get community involvement which they did. There were a lot of people involved in the process. They started with the leaders of 14 communities. Most of them had home owners associations with an elected president. They explained to them what happened and that there were 492 development units that were approved for Wolf Creek Resort but not yet assigned to a specific parcel. Some of the entities who picked up some of these parcels that can be developed at the Wolf Creek Bankruptcy Auction were interested in the 492 development units assigned to their parcel. They explained the situation to the community leaders, they asked them to come back and give them some input, and they took that input and summarized it.

Mrs. Fullmer said that they had a town meeting on September 17, 2014 and invited anyone who wanted to attend. They presented the results of all the input they received from the communities, and asked the people in attendance if they had anything more to add and they did receive a few more comments. They also had the developers, most of the five entities who wanted to amend the 2002 Development Agreement and once the message had spread, the developers and the communities worked together. Some of the ideas that came forward from the communities were also picked up by the consultants who are doing the re-review of the entire Ogden Valley. They also got a lot of miscellaneous input about the valley in general and how it is a recreational aspect not only to Weber County but the population that is basically on this side of the Wasatch Mountain. There were ideas on what to do to keep it that way, such as the roads, the congestion, and a lot of safety issues that were there. There is a lot of information on the webpage and they have summarized all the information. They did not need another 18 hole golf course so the space that was allocated for the other golf course will be open space.

Mrs. Fullmer said they had one developer of Eagles Landing that said he didn't want any more development units and committed to us that he would take that open space that was supposed to be a golf course and leave it as open space to be used for recreation. They also got an offer from another owner of a parcel for a community center that is badly needed with some ideas for the center and his commitment in doing that. There were ideas of connecting all the developments with walking and bike trails and the main objective was to keep the open space as much as possible for everyone to use. It turned out with all the people involved and after spending endless hours going through the research that there were not 492 development units to be allocated as previously thought there was 0. It was a great thing that the Planning Commissioners voted not to have those units allocated since they never existed.

Mrs. Fullmer said they have posted on the back wall the Wolf Creek Vision Map and two other maps made by the Weber County IT, who customized the maps beginning with Wolf Creek Water, added all the roads in, and added the zoning. All of these maps up were in different stations at the meeting they had with 210 people in attendance, and it was a civil and positive meeting. The next map was generated by John Lewis and Eric Langvardt group which is a proposed Wolf Creek Land Use Map. In the 2002 Development Agreement, it referred to a Wolf Creek Master Plan but they had not found that master plan. Director Wilkinson added that there was a development agreement with all of the numbers and legal descriptions for all of the parcels within Wolf Creek that was recorded in 2002. There were no maps associated with that

that were recorded at that time. However, we have been going off of the maps that were associated with that discussion and other maps that showed open space and other things. There have been proposed updates to the maps based on the community input and they feel they have done their best doing due diligence to collect the community and working with the developers. What might be a welcomed thing is to somehow ensure that everything will be executed. She thanked everyone that attended and participated in helping with maps, signs, posters, and the website.

Gary Fullmer, who resides in Eden, said one thing that is very important is that they are not able or authorized in making planning decisions for developers who own land. It was suggested to us, after the meeting, that they go out and get community input. Shortly afterwards it was suggested that they work with development teams, developers that existed at that time to get a combined input, which they have done. What you see before you is community input with developer oversight and they met with all of the developers. With the combined effort they hope that this moves forward with the decisions. Many of the issues that came up were actually included in the ordinance that is coming forward in the cluster development. People are concerned about development without a plan but the rough draft of the ordinance that he has seen contains a lot of what the public is concerned about. They need to thank Summit who offered limited financial resources with their facilities and their maps. One of the maps in the back was proposed by the major landholders and that map reflects what everybody's concept is.

John Lewis, owner of the golf course, said being the new owner of that property that they have been developing Wolf Creek for 18 years and they have always encouraged community input. Mr. and Mrs. Fullmer did a phenomenal job collecting information. This is a great opportunity to show how community input can actually enhance the plan. You can see the ideas that were taken from their input that show on those maps. It is their commitment and his commitment to this council over the next year to put together an updated master plan.

2. Petitions, Applications and Public Hearings

2.1 Administrative Items

a. New Business:

1. Approval of a Conditional Use Permit for an accessory apartment located at 3778 North Willow Brook Lane, Eden UT - Rachel Nielsen, Applicant

Ronda Kippen said the application that is before us is a request for an accessory apartment to be located within a single family dwelling that is located in the Patio Springs Subdivision in Lot 21. Accessory apartments are allowed in any zone that a single family dwelling is allowed as a conditional use. A dwelling unit can be defined as living facilities including provisions for sleeping, eating, cooking, and sanitation. A dwelling for a single family means a building arranged or designed to occupy exclusively to one family. A family can be defined per Weber County Code as one or more persons who is related by blood, marriage, adoption, domestic employees; or a group of not more than four persons who need not be related. Based on that criteria, the accessory apartment would allow for one family unit to be located in the accessory apartment and one family unit to be located in the principal dwelling. Our code is very explicit about the review criteria of the accessory apartment and they want to make sure in relation to the principal use is always subordinate. The code has some guidelines that it continues to have the appearance of a single family dwelling and not a duplex.

Ronda Kippen said it has to share a common wall, roof, or floor. The interior can be accessed between the two units with a door and at no time can there be a separate mailing address for the accessory apartment. The basement qualifies as an acceptable accessory apartment location and the applicant has proposed the accessory apartment to be located in the basement. They have located the original building plans for the home and have been able to calculate the approximate square footage of the accessory to ensure the minimum living quarters has to be 412 sq. ft. and not exceed 25% of the gross livable area with a maximum area of 800 sq. ft. The proposed apartment has approximately 559 sq. ft. which does not exceed the 25% or the 800 sq. ft. Apartments cannot be allowed unless it has an external walkout basement. The proposal appears to conform to the RE-15 Zone and it does have an external walkout basement that is located at the front of the residence. In order for this to meet code, the applicant can get a building permit for an external door to be located on the side or the rear of the building, they can appeal and ask for a variance from the Board of Appeals and receive approval for the current location, or they can apply for and receive approval for an amendment to the county code to actually change the standard to allow for the external to be located on the front of the property.

Ronda Kippen said the amenities required for an accessory apartment must contain a kitchen facility, full bath, and a separate electrical panel. At no time can they exceed two bedrooms and the applicant has provided drawings that can support the required amenities. As for the parking, they need to make sure they will not be adding parking to the roadways, and they require two off-street parking spaces in addition to parking spaces for the principal dwelling. The applicant has sufficient parking along the front to allow for two off-street parking spaces, a garage, and another pad for the principal

resident. Staff recommends approval of this conditional use permit request for an accessory apartment subject to all review agency requirements and based on the findings and conditions of approval as listed in the staff report.

Commissioner Howell said in the drawing it shows an accessory apartment to the rear; there has to be window in the back or it won't pass with the Building Department and Fire Department. Ronda Kippen replied that is correct and she will notify both the Building Department and Fire Department who will make sure that requirement is met.

Commissioner Warburton said in reading where it states in relationship to the principal use, there shall be no separate address, mailbox, or utilities but then they require them to have a separate panel for utilities, is that a contradiction or how does that work? Ronda Kippen replied that it would be the same servicing address but it would have a separate breaker box.

Rachel Nielson, who resides in Eden, applicant indicated that she didn't have any additional comments, but would answer questions if asked.

MOTION: Commissioner Warburton moved to approve CUP 2014-22 for an accessory apartment located at 3778 North Willowbrook Lane with the recommendations and conditions placed in the staff report; they will have to be satisfied before approval. Commission Graves seconded.

Vote: A vote was taken with Commissioner Howell voting nay and Commissioners Graves, Haymond, Warburton, Parson, and Chair Miller voting aye. Motion Passed (5-1).

2.2. Legislative Items

a. New Business:

1. ZMA 2014-01: Consideration and action on Zoning Petition ZMA #2014-01 by Summit Mountain Holding Group L.L.C. to rezone approximately 6,160 acres, at Powder Mountain Resort, from Commercial Valley Resort (CVR-1), Forest Valley-3 (FV-3), and Forest-40 (F-40) to the Ogden Valley Destination and Recreation Resort Zone (DRR-1) - Summit Mountain Holding group L.L.C. Applicant (Paul Strange, Summit Mountain Holding group, Eric Langvardt, Land Planning and Design, Langvardt Design Group – SLC, Utah; Representatives)

Scott Mendoza said the applicant, the Summit Mountain Holding Group LLC, requests that you consider amending the zoning map in the area of the Powder Mountain Resort. The request is to consider changing the existing resort zoning from approximately 2,140 acres of Forest Valley-3, approximately 3,895 acres of Forest -40, and about 125 of Commercial Valley Resort-1. All of that acreage is to become the Ogden Valley Destination Recreation Resort Zone. The resort overall covers about 10,000 acres that spans both Weber County and Cache County. The resort has proposed six development areas and on page 19 of your application booklet, there are six development areas, with such uses as single family homes, multifamily homes, retail, residential lofts, hotels, conference facilities, restaurants, and other resort general related commercial type uses.

Scott Mendoza said that within the six development areas a maximum of 2,800 dwelling units are proposed; to date about 154 have been platted and recorded. The open space plan with the trails proposal are listed within that plan, and the recreational opportunities that have been proposed are the existing snow and ski operation, kite boarding, sledding, tubing, ice skating, indoor recreation facilities, swimming, hiking, mountain biking, horseback riding, Geocaching, zip lining, an adventure course, kids camp, spa, amphitheater, and special events. The planning staff has been reviewing this application along with all the review agencies, and in some case the review agencies have hired help; for example, Hales Engineering was hired by the County Engineer's office to review the transportation impact analysis that was presented. They have given a thorough review and have been determined that the application and submittals are complete and in compliance with all of the requirements. The land use plan appears to be reasonable and the amount of open space in this application exceeds the amount required by the resort zone. The project according to the cost analysis reports that the project will stimulate business and associated positive economic activity within the community, region, and the state.

Scott Mendoza said that the utility and emergency service providers have committed with letters stating they will provide all the services requested for the project. The requested number of density units, 2,800, is consistent with the existing zoning agreement that comes into play with this project. The traffic consultants took a look at the plan; they don't agree on everything, but they do agree on the standard traffic methodology that has been used. The mitigation strategy is a key issue for the proposed strategies that can be put in place at all the intersections, they found that they would return if the traffic at the intersection gets beyond acceptable levels and begin to fail. Litigations will return those study intersections

back to a Level of Service (LOS) of C or better. Staff is supportive of this and recommends approval of this application subject to the conditions outlined in the staff report.

Commissioner Graves asked what is the current Level of Service is at this time. Scott Mendoza replied that in general they have taken a study at this intersection, and have determined that a certain point within the interior of the development of the project, with the projected traffic, and with other traffic that happens to come into the valley, the services that are given to you by the intersections, they will start to provide less of a level of service from A through F and the existing conditions is a level C and the mitigations are with the traffic lights and those improvements return that to a C or better.

Commissioner Howell asked if anything had been considered on this grade of 13.2 and 11.2 going up to Powder Mountain by UDOT. Scott Mendoza replied to his knowledge there is nothing being done as far as looking at realignments to address the percentage of the roads, and that is one of the conditions for UDOT. Summit is very open in providing land in the future for some type of safety facility that would improve the safety of the road.

Open for public input.

Greg Mauro, Chairman of Powder Mountain, said that overall they are executing on a vision that they laid out; and they didn't know whether people would respond to home size restrictions of 4,500 sq. ft. above ground, significant clustering, and commercial space below. They have met their projections that they based their initial county bond and for the 2012/2013 period as well as for this year. The momentum is very solid thanks to the support they have received from the County. The Planning Commission was able to see the roadway and the utility infrastructure go in and once that road is completed it will actually be orange-coated reddish slurry that will look like the road in Zion's National Park. They are shooting for the feel of a national park and that is why they are clustering the development to preserve as much of the open space that they can. The ski bridge and tunnel will be continued to be completed until they get shut down by the snow and then they would restart in the spring. The conclusion of this process actually consummates our number of partnerships. Their corporate retreat was based on Swiss Upper Alpine Style Village and he thanked everyone for their support.

Eric Langvardt, who resides in Salt Lake City, said that with their resubmittals, a lot of the information that they updated was technical. Mr. Mendoza has been great to work with on such a big project. With this rezone, they get a master plan that gives them the big picture with the open space, amenities, and the current development. Under the current zoning they could develop a piece at a time with 400 units and one hotel and then they have to wonder what's coming; that as a planner is the biggest single benefit that the community gets. Tied to that comes all the service provider reviews, and they reviewed the entire master plan as a whole. They are exceeding the required amount of open space and they are adding nearly 2,000 acres to the rezone that was not previously in the development agreement. Part of the amenities is the public trails connection which is one of the conditions in the approval. One of those trail connections is property that they don't own and could put in the development agreement but they can only commit to sections they own. Beyond that, traffic is a big issue and the traffic report is impressive, and having the plan that reduces the trips by providing incentives for people that rides the bus. The biggest challenge is traffic; when things get busy the fewer people they have on the road the better it is.

Commissioner Howell asked if they have requested anything about zoning from Cache County. Paul Strange, who resides in Eden, and is the Chief Operating Officer for Summit, said the only conversations they've had with Cache County is for the small sliver of the development that is subject to an interlocal agreement with Weber County and they have made no effort, other than establish a relationship, to do any development on that side.

Commissioner Haymond asked the current status with the Community's concern about the water for this development and whether it's going to be affecting the aquifers that the lower valley pulls from. Rick Iverson, who resides in Holladay UT, said that they are currently trying to get an exchange application approved to relocate a point of diversion to the well that's been drilled. That well could serve a couple hundred units, certainly the first phase of the development. Powder Mountain Water and Sewer District has capacity and now that the tank is built, they have plenty of source demand of a couple of dozen units while the exchange application is taking place. Working with the state where the well is finished, the pump is going to be installed, and then they would do aquifer test with the state. All the information and several screens that will be monitored while the well that is drilled will be turned over to the state.

Commissioner Warburton said where it states that no collaboration is expected in the Wolf Creek Water and Sewer District letter, is that going to be a concern? Scott Mendoza replied no, that it was just an attempt by Wolf Creek to clarify a

statement that was made in the revised application and that it still has the overall feasibility from Powder Mountain Water and Sewer.

Lee Schussman said he supports the DRR-1 Zoning. Staff has been working on this. He believes that Ogden Valley needs a transportation hub, with careful planning by Powder Mountain and the community on where to site that. It could be in the Eden area and would stimulate business there could help with traffic problems, and he would urge them to work with UDOT to expedite that. He has a concern about the water on the administrative part. In February 2013 they received an approval for 14 wells at that time. In regards to sewer and water, Weber County Engineering Division requested a capacity assessment letter regarding the capacity of the sewer lagoons the developers may have not yet provided. In the spring the developer is going to come to the county for development rights and he would urge them that rather than a feasibility letter, that they get some kind of guarantee that they are getting 500 gallons to make sure they follow the process with any of the developers, and mandate that the developer follow the proper steps in the administrative process.

Cal Welling, representing Eden Water, suggested waiting until the aquifer tests and ongoing studies are complete with the state engineer so that there is a definitive answer that there is enough water and sewer capacity to support the project.

Gary Fullmer, who resides in Eden, said he is in agreement with Mr. Schussman, but there are many initiatives going on in the valley that are affected by this proposal; such as Dark Sky, enhancement to emergency preparedness services, and also include the report earlier such as traffic mitigation and hubs for transportation.

Olivia Hardcastle, who resides in Eden, asked if anyone had a plan to recharge the ground water because the valley depends on those aquifers. Scott Mendoza stated the ground water recharge issue is being studied.

Jon Werner, representing Wolf Creek Irrigation Company, said that it has the senior water right on Wolf Creek and most of the springs which are included in the exchange application. He wanted to caution those who make decisions that it's a complicated geology, hydrology, and water supply. Recharging that aquifer is by natural means and that's very unpredictable from year to year. He did not protest the development and opportunities in recreation; but at this point in time for those water users who are served by their irrigation company, irrigating nearly 800 acres of land, the exchange of water to meet the needs of those water users between the mountain top and reservoir, there is no way to irrigate with 400 feet down the stream in Pineview Reservoir. He suggested making sure that all data is gathered before a decision is made.

Brian Mathias, who resides at Powder Mountain West, said he would like to comment about Section A, and right below is the road that he will be talking about. After reviewing the Powder Mountain DRR-1 rezone application, there is a portion of Aspen Drive, the road that residents use to access their homes, is to be incorporated into the year round road accessing the proposed hotel. The map does not address how these off ski areas like Weber Bowl will be accessed in the future. Will the existing single CAT skiing be moved to the top of the proposed new hotel lift? Are there additional ski lifts planned for Lighting Ridge that will be allowed access to the Weber Bowl and the rest of the front side terrain? Is the skier bridge to be assigned to go over to the newly plowed Slow Poke Aspen Drive? He is concerned about how the construction and operation of this boutique hotel will affect his investment, his property, and negative impact on the ski out quality, the liability of the skiers crossing and potentially crashing on this newly plowed road.

Craig Colgate, who resides at Powder Mountain West, said he has not seen it but the plan to the road to access the Boutique Hotel will take what is now a groomed trail from that side of the hill, and legally that is only granted as a ski trail easement across the back of 10-12 property owners. Their property line goes all the way back across the current trail and right now it is just a ski easement for that trail.

Julie Turner, who resides in Eden, asked as a part of conditions for approval, is an applicant required to indemnify the county and is that written in the conditions? Director Wilkinson replied that it is not written into that condition, at this point it is just a rezone application. They don't have an actual application for physical development. The applicant has to comply with county code, if they comply with the provisions of the code, then they are allowed to develop.

Eric Storey, who resides in Eden, and is the Board of Directors for Weber Basin Water, said he wanted to explain the water situation. When Weber Basin was organized, they were given all the un-appropriated water that was in Ogden Valley. Since that time, anybody that applied for water, whether they lived in Eden, Huntsville, or anywhere in Ogden Valley would have to contract Weber Basin for that water. Once that water was contracted for, that entity would go and apply for a well permit from the state, and he needed to clarify that well permits were issued by the State of Utah. If anybody applies for a well permit and comes to Weber Basin to contract for water, they have a policy of first come first serve, so there is no

delineation as to who they serve as long as the State of Utah states that there is water. There has never been anyone who has contracted with Weber Basin that has been denied. At this time, they do not know how much water there is.

Close for public comment.

Eric Langvardt said water is biggest issue. He did want to clarify that they aren't asking for density and zoning as they already have that. They can't do anything without water and sewer and that part of the process they go through are the next steps. What they are trying to do is the density they have in a place that makes the most sense for everybody. The second issue he wanted to address was the Ski and Boutique Hotel; their intention was not to cut the ski access off. They have the flexibility of where the hotel could go, but they are not intending to cut off the access. That was a currently existing area that was shown before.

Commissioner Warburton asked if they are discussing property lines or the issue about not being able to ski where they want to ski. Eric Langvardt replied it's the issue that the road is where they currently ski, so if the road goes up there, that access would change, whether it's a ski bridge or they ski along that side of that road, they have to look at the grades. If they did a boutique hotel there, their concept was to do nests above it, and possibly have a small lift that gets you to the top of that. As they come forward in that development area that would be something they would need to study.

Greg Mauro said they do have significant chunks of their property where they have seller financing including that spot, so whether they wanted a boutique hotel there or not, they couldn't remove it; it's currently approved in the existing master plan and they're bound by their seller financing to keep it there.

Scott Mendoza said that Dr. Schussman had brought up a question about transportation and where it may be located. He wanted to remind everyone that the county is going through a general plan update process and that would be a great opportunity to participate in the process talk about the appropriate locations for transportation hubs in the valley.

Commissioner Warburton asked to clarify what this petition actually does; it seems not everyone is clear that this is rezoning and not an application to build a house. Scott Mendoza replied the application before us is to rezone property. This is looking at project conceptually, not much detail but seeing if the project conforms to the general plan, is it public best interest, does it provide economic benefits, does it provide recreational benefits, and well being in general. This is a conceptual look at zoning; there is a long way to go before there is a major application. There is a whole level with a more detailed overview to come; water has to be in place, sanitation has to be in place, and the state has to be involved.

MOTION: Commissioner Howell moved to recommend to the County Commission approval on ZMA 2014-01, a zoning petition by Summit Mountain Holdings Group LLC to rezone 6,160 at Powder Mountain Resort and subject to all conditions in the staff report subject to all conditions in the staff report and all county agency requirements. Commissioner Parson seconded.

DISCUSSION: Commissioner Parson said as stated by Commissioner Warburton, the most important part of it is the fact that nothing can really happen and everything is still pending. Chair Miller said they have a nice conceptual plan that works with the terrain, the amazing views, and the way they planned the village into the valley and the meadows. Commissioner Warburton said that Summit has demonstrated that win/win in a professional way. Commissioner Howell there is a host of conditions that Powder Mountain has to adhere to and everything has to come to this board.

VOTE: A vote was taken with all members present voting aye. Motion carried 6-0.

3. **Public Comment for Items not on the Agenda:** There were no public comments.
4. **Remarks from Planning Commissioners:** There were no remarks from the Planning Commissioners.
5. **Report of the Planning Director:** Director Wilkinson said they need talk about a date for a meeting in November. They ran into some problems, Election Day is November 4, and that date was scheduled as their work session. There is also a budget hearing scheduled for November 25 at 6:00 p.m. which preempts their meeting. They have some options; they can meet on a different day of the week, they can meet at a different location on the 25th, but that is also two days before Thanksgiving. They just want to get a consensus as to what would work best so that they can still hold a meeting in November and they could consider having it in the valley. If they have a quorum and are committed to that, staff will move forward with the 25th at a different location, and if this works for everyone, they will work out the details. Another item is

their Thank You Dinner they have every year. Is there something else they could do to say thank you or what would this commission prefer? Commissioner Graves said that he enjoys the dinner and it is the one time he can take his wife. Commissioner Warburton suggested having gift certificates. Vice Chair Miller said she was not available on Wednesdays due to other obligations.

Director Wilkinson said he would have Charlie address this more, but there were post cards sent out to every valley resident that they had an address for the Big Kickoff Meeting scheduled for November 5th and 6th. The same thing will be going on both nights with an Open House for the public starting at 4:00 p.m. until 8:00 p.m.

6. **Remarks from Legal Counsel:** Dustin Parmley said he wanted to say good job to everyone as they considered the rezoning application. There was a lot of community involvement and input. It's great to see them acting in a legislative capacity where they are not bound with the same rules as in an administrative capacity and it was great to see that.

Charlie Ewert said the consultants will be at the Ogden Valley's at Snowcrest Junior High School, from 4:00 p.m. to 8:00 p.m., on Thursday November 6, and Friday November 7. Those postcards should be in their mailbox tomorrow. The cards went out to every mailing address that they had record for in the County Recorder's Office for the upper valley. They will also be posting on the county website, the state noticing website, and posting it on the newspaper. This will be a visioning workshop for the community to come up with the vision of what the valley will be. The open house will be very informal, the consultants and staff members will be there to help navigate and guide some of the concepts and put them down in comment cards which will be submitted to the consultants for evaluation. All this will be populated into one final score card with ratings and ranking to come up with a general consensus for the future of the valley. What has been done is put together historic documents to see what has been built and they can come up to a framework and understanding what past planning efforts have been represented. From that, they want to take comments from the public and figure out whether historic efforts are in line what the people want.

Charlie Ewert said that he has sat with these consultants in other meetings similar to this and they are every effective. The meetings that ran before were very informal, phone boards were put up with printouts of potential ideas, to help people navigate through their thought process, with the ultimate result of that meeting with a huge stack of cue cards for ideas from the public. This is going to be an open house, it's informal, and very casual where people express their thoughts and desires and talk about the community for their hopes and desires on a community they love. The postcard directs people to the website and that will have more information on this event and if they go there it is www.valleyplan.com.

7. **Adjourn to a Work Session:**

8. **Work Session**

WS1. Ordinance Amendment Work Plan – Charles Ewert

Charlie Ewert said that he sent a work flow process for future ordinance changes. There is a method so they don't leave some sections of their development code out leaving people exposed to harmful impact under regulation. He has broken it down to five different phases, and it's been identified that they need to fix the conditional use permit process. After fixing the conditional use permit, they are going to fix their use tables. Currently they don't have a use table in a couple of zoning sections; and his vision is to take all permissions granted through their zoning codes, condense and consolidate them into a use table that will list the specific codes they have and the specific uses that are allowed. That would allow them to go back and forth between the zones and just look at one table to see what is and what is not allowed and question why there is a difference there. From there they will go into a full analysis of what use is appropriate in what area.

Charlie Ewert said they will start with Phase 1a which is the conditional use permit chapter and move onto land use authority and designate who is the appropriate authority for certain decisions right now, Director Wilkinson has authority for certain administrative functions, the Planning Commission has authority for other type of administrative functions in the county, and the County Commission has authority for yet others and they want to make sure they are clear on what those are and make the changes at Phase 2. As they dive into Phase 3, that's where they will do the consolidation of the land use tables so they can do a full and complete analysis of those uses. Throughout all phases they will be forwarding stuff that needs to be fixed and some that he had identified that could use some clarification in the code. The first thing that the Planning Commission will see is the change to our non-confirming use chapter which has been pushed up because of some right-of-way expansions in the Western Weber County. The second things they will see are some differences in how to define a main use versus and accessory use. Director Wilkinson and staff is committed to the project.

Dustin Parmley, Legal Counsel, added that a lot of these changes in working through the ordinance; are changes in structure and how they do things as a county, and how they make decisions. They don't say much about what decisions need to be made to implement the general plan update that they are working toward, things like the conditional use permit chapter that affects the process of approving conditional use permits. Some of the things that they are looking at are ways to give the commission greater flexibility to impose different conditions appropriate for a particular parcel. They currently don't have in the code a way to give them greater flexibility of who makes those decisions in Phase 2a through 2b.

9. **Adjournment:** The meeting was adjourned at 7:15 p.m.

Respectfully Submitted,



Kary Serrano, Secretary,
Weber County Planning Commission

Minutes of the Ogden Valley Planning Commission Regular meeting held on December 02, 2014, in the Weber County Library, Ogden Valley Branch, Huntsville, UT commencing at 5:00 p.m.

Present: Pen Hollist, Chair; Greg Graves, Will Haymond, Laura Warburton, Kevin Parson, Ann Miller

Absent/Excused: John Howell

Staff Present: Sean Wilkinson, Planning Director; Scott Mendoza, Principle Planner, Charlie Ewert, Principle Planner; Ronda Kippen, Planner; Dustin Parmley, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

1. **Minutes:** Approval of the September 30, 2014 and October 07, 2014 meeting minutes

Chair Hollist declared the meeting minutes approved as written.

Chair Hollist asked if any member had ex parte communications to declare. No ex parte communications were declared.

Chair Hollist said they will be reversing the order of the agenda items with ZDA2014-01 being heard first and then the next item would be CUP 2014-09.

2.2. Legislative Items

a. Old Business:

1. **ZDA-2014-01:** Consideration and action on a request to add an addendum to the 2002 Zoning Development Agreement for Wolf Creek Resort (Wolf Creek Stakeholder Members, Applicant)

Jim Gentry said we have a proposal from America First Credit Union and CAPON Capital LLC where they are proposing the two step process; the first is to add the addendum to transfer 58 units that are owned by Capon Development to America First property. The 58 units will come from the FR-3 Zone; this is a recommendation to the County Commission and there is no increase in density on the 2002 Zoning Development Agreement. The zoning and density remains the same. Staff is looking for a recommendation to the County Commission for approval and they have been working on an update to the master plan. Mr. Fullmer indicated that owners in Wolf Creek and the community have had many meetings and received a lot of input was produced showing the changes from the information they received.

Chair Hollist asked staff to describe the two steps. Jim Gentry replied that the first step is to do the addendum, the approval for the transfer, and the second step would be to finish the master plan within a year and have that before you for a recommendation to the County Commission for adoption. They have received a lot of input and this should be finished shortly. The only thing that is happening here is transferring density from the FR-3 Zone to an RE-15 Zone that will not exceed the density that would be allowed under that zoning.

Chair Hollist said he spent a considerable amount of time trying to figure out the 492 floating units and now discovered there are no floating units. Jim Gentry replied that all the units have been calculated for and is not exceeding the density and there are no floating units. The numbers were not represented correctly the first time and they went back and recalculated. Director Wilkinson added when the original numbers were calculated, the 492 units were units that had already been developed in Wolf Creek, and those 492 units were being included in the additional number. In looking back, the 492 units had already been developed and that number should have gone away.

Chair Hollist said that he previously worried about the 492 units and now he has to worry about 798 new units. Jim Gentry replied that these units that have already been accounted for and part of the zoning development agreement that was done in 2002, they just hadn't been built at this point. There are other property owners within Wolf Creek that still have the density they had; this does not affect those owners who have developable units.

Chair Hollist said that having recommended that they approve this transfer density, do they move forward? Jim Gentry replied no, they still have to amend the master plan and if they want to develop something in the FR-3 Zone, they still have to go through the same process; all this does is allow the transfer between the two property owners.

Eric Householder, who resides in Eden, said this is complicated and staff has been working through the numbers. It's important to understand that all the 797 units that are being referred to are part of that global plan, they just haven't been allocated to a certain project that fits within the Wolf Creek Master Plan. There is no increase in density. The numbers sound big but they existed before, and their intent is to clarify the certainty on the entitlements for the individual stakeholders. Since the meeting in June, a lot of things have happened, and they have gathered a lot of community input that they tried to incorporate into a plan. They wanted to see clustering, traffic questions, trails, commercial services, and they tried to capture that in their land use plan. In short, there is no additional density awarded and they are just trying to sort out a messy situation.

Commissioner Parson said in that area where they have the 58 units, there is a road that leads around that or is up in that general area. Eric Householder replied that is correct.

Commissioner Miller asked how many units in that section of the 15 units are actually going to be in a large area. Eric Householder replied that the idea would be to have them in the like FR-3 Zoning; the rest would be in the open space.

OPEN FOR PUBLIC COMMENT

Paul Strange, who resides in Eden, and is the Chief Operating Officer for Summit, said that the last meeting they had was a three-hour extensive discussion on this issue; and after all that thought went into it, what this Planning Commission asked for was a master plan and to come back before this went to any reallocation of density. That hasn't happened and what they have is something that is similar, and not more detailed than the conceptual map that was originally associated with Wolf Creek, and as Director Wilkinson mentioned, that was not a master plan but attached to the development agreement. They don't have a master plan and there is nothing showing on the parcel that they own the 40 acres in the middle; it shows the 13 units and the parcel that is in grey is within Wolf Creek and the developmental agreement. An important part about having a master plan is having the developers commit to delivering certain aspects like trails, community centers, etc. There really isn't a plan that binds them to anything in which they will provide any amenities or anything along those lines. Fundamentally nothing has changed since they were here before and the Planning Commission asked them to come back with a plan and they have not done that. He would suggest that they would stay with the same approach and ask them to come with a plan first.

Commissioner Warburton said that it is difficult to have a plan if they don't know how many units they are going to make, and just because they have the units doesn't mean that they can do what they want, they still have to come back. Paul Strange replied yes, but the plan would show the 58 units being where they want them to be.

Sharon Holmstrom, who resides in Eden, said in reference to the Wolf Creek progression; there were a number of acres set aside as open space to allow the density. She wondered how staff and this Planning Commission is keeping track of the open space that was originally designed to give this density because it gets moved around from decade to decade.

Kim Wheatly, who resides in Huntsville, said on the things that happened there was a terrific cooperation between the people who lived in Wolf Creek and the owners of those parcels. It was process that happened; it was organized and driven by people who live there. If it wasn't for the due diligence of this group required the last time, they would have an extra 492 units, and some things take time and that is a good thing.

CLOSED FOR PUBLIC COMMENT

Eric Householder stated that piece doesn't show any development, they did make an effort to reach out to the property owner to get some comments but they haven't heard anything. He knew that the amenities are a concern and he couldn't speak for the developers, but the idea is to build as the market demanded. They did focus in on the center and they show communities and tried to identify areas for future amenities, but it is not as detailed as the master plan at this point. What needs to be understood about the Wolf Creek master plan, is that half of it is already built. They are focusing on an area for the community center. The golf maintenance facility is adjacent to that.

Commissioner Miller asked when they could anticipate that the master plan would be done. Eric Householder replied they are actively working on it. They have made a lot of progress and they have not received the comments from all the

stakeholders, but for the parcels that they have control over, they have some input. This is more than what Wolf Creek ever had that was tied to the agreement.

Chair Hollist said that they are now talking about 798 new buildings or units beyond what are up there now and they struggled for a long time with the 154 units for the Summit Group; it was months and this is six times that amount, so you can't come in and say okay, we have a due diligence responsibility of what is happening, what will they look like, how will they be placed on the land, etc. Eric Householder replied that they are committed within a year to bring in the master plan, but until they have the numbers, how can they lay that out?

Commissioner Warburton said how they can develop a master plan without knowing how many units they can develop? She understood that these units are going to be allocated; if they had never broken up, if the resort had never gone into bankruptcy, if that resort was operating the way it was, those units would go in so it's not new. Chair Hollist said that he understood but that was under a master plan that is now obsolete.

Director Wilkinson said to clarify, that master plan is not obsolete, that is what they currently have in place to guide development at Wolf Creek. This new master plan would then supersede what has been in place previously. Chair Hollist asked if they could still develop under the old master plan, and he also asked if it will be a year before they see a new master plan. Eric Householder replied that their intent would be sooner but they would like the year window.

MOTION: Commissioner Parson moved to recommend approval to the County Commission to add ZDA 2014-01 to the 2002 Zoning Development Agreement for Wolf Creek Resort which transfers the 58 units. Commissioner Warburton seconded.

FRIENDLY AMENDMENT: Chair Hollist asked that there be added in that language that a new master plan is available within the timeframe of one year.

DISCUSSION: Commissioner Parson said that he had a problem with the whole thing of the master plan because they are not necessarily changing the zoning. They don't necessarily need to see those buildings before them. Powder Mountain changed the zone, they wanted to change from what they were to a destination recreation resort zone, and they had to show us what it's going to look like. He didn't think this applicant has to show us what the building is going to look like until they know what type of buildings are going to go in. He would agree to that if their zoning was changing. He agreed to the 58 units being noted, the schematics being noted, but he doesn't agree with forcing them to provide renderings of buildings that they don't know where they are going to go in. Commissioner Graves said that this master plan requires that they see building elevations on every single building that is being proposed. By allowing them to transfer these units, now they know where they need to go, they want more definition where they will go, and that's what they are offering us to show how this is going to lay out on the ground, these are where the units are going to be, this is the approximate shape, etc.

VOTE: Motion Carried (6-0)

2. Petitions, Applications and Public Hearings

2.1. Administrative Items

a. New Business:

1. CUP 2014-29: Consideration and action on a Conditional Use Permit (CUP) application for a condominium project including lockout rooms and allowance to exceed the required 25 feet in building height located at 3567 Nordic Valley Way in Eden, in the Commercial Valley Resort-1 (CVR-1) Zone (Skyline Mountain Base, LLC, Applicant)

Ronda Kippen reviewed the staff report and said that the applicant received approval for the first stage of a transitional process for the ski resort in September of this year. If this Planning Commission approved the request for a condominium project and additional building height, the applicant will begin the process for a condominium subdivision as required in the Land Use Code 106-3. The proposed use conforms to the Ogden Valley General Plan by encouraging commercial development in the Ogden Valley within established commercial areas and supporting continued development of resort-related commercial area by promoting active recreational opportunities in the Ogden Valley. The Planning Commission will need to determine if the proposed condominium project meets the requirements of the applicable Uniform Land Use Code of Weber County. The Planning Commission may impose additional conditions in order to ensure full compliance with the

required standards. The Planning Division recommends approval of this conditional use permit request for a 54 unit condominium with 54 lockout rooms and allowance to exceed the required 25 feet for approval subject to all review agency requirements and based on the findings and conditions of approval listed in the findings and conditions for approval listed in the staff report.

Chair Hollist asked for clarification if they were recommending to the County Commission or if they were approving or disapproving. Ronda Kippen replied that the Planning Commission is making the approval or disapproval for a condominium project and the additional building height of 54 feet.

Chair Hollist asked if she was prepared to read the actual code concerning height in the CVR-1 Zone. Ronda Kippen read the 104-11-6 Weber County Land Use Code, under lot standards, *"A conditional use permit is required if a building is over 25 feet."*

Commissioner Warburton asked if Doug Larsen from the Weber Economic Development was brought in on this given the size, scope, and location of this development. Ronda Kippen replied that she did not involve him on this project. Director Wilkinson added that he is aware of the project and the development; he would not have been brought in on the site plan review because he does not get involved in the specific details of the design review. They have talked to him in the past and of all the economic projects in the valley. If there is a project, they seek his advice and have him provide us some sort of an analysis.

Commissioner Warburton said that legally they are not required to make things economically feasible. What if they have a concern that it might not be economically feasible? Are there any protections for the county that they won't be left with a building? Director Wilkinson replied that as part of the PRUD, which this is not, there is a requirement for some sort of financial analysis, however, in this case there is not a requirement in place. This was their choice and they did not need the flexibility that the PRUD offered.

Ronda Kippen said she needed to clarify the 10%. The code requires 10%, but it is not specific on what is required for that 10%. What staff has done is find what is historic that could be carried through. They did not calculate the area for the parking, the pool, or the outdoor plaza area as the required 10%. The overall 10% is based on the overall square footage of the commercial area of the lower level, the condominium units on the main level, the second level condominium units and commercial, and the same for the third and fourth.

Commissioner Warburton read the intent and purposes of the CVR-1 County Code and said that the intent was to maintain the natural rural and that is what they see.

Chair Hollist asked legal counsel to read that section of the code from, "Conditional Use shall." Dustin Parmley read; *"Utah State Code, Section 17-27a-506 governs Conditional Uses, Subsection 1, a land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standard set forth in an applicable ordinance. Subsection 2a, a conditional use shall be approved if reasonable conditions are proposed or can be imposed, to mitigate the reasonably detrimental effect of the proposed use, in accordance with the applicable standard. Subsection 2b, if the reasonably anticipated detrimental effect of a proposed conditional use cannot be substantially mitigated by the proposal, or the imposition of reasonable conditions which complies with applicable standard, the conditional use may be denied."* For the Planning Commission what this means, if there are conditions that can be imposed on the proposed use, to mitigate reasonably anticipated detrimental effects, then the conditional use shall be approved. That is mandatory language from the state code. However, if there is no way to impose reasonable conditions to achieve substantially mitigated detrimental effects, then the commission may, it is permitted but not required, to deny the conditional use permit.

Commissioner Parson asked doesn't that refer to if that can be done, if they can have a reasonable argument, if one groups opinion is such that by adding something and it can mitigate it. Dustin Parmley replied that it has to be based on actual facts for the record. It must be done on actual evidence, if they are going to deny a conditional use permit, it must be done on evidence. It cannot be done based on public clamor, based on opinion, based on the public outcry, or any animosity towards the applicant. They need to have actual evidence of detrimental effects and the determination that they cannot impose reasonable conditions that would mitigate those detrimental effects. Mitigation doesn't mean that they completely eliminate any detrimental effects; it simply means that they reduce them to a level that they are comfortable with. There will still be detrimental effects, but it is a level that they can live with.

Ronda Kippen added that the Weber County Code states that 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 that 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 the applicable standards. Examples of potentially negative effects are odor, vibration, light, dust, smoke, and noise.

Commissioner Warburton said the county can impose greater standards and she didn't see what is greater than what the state has. Dustin Parmley replied that the county decides what the standards are that are to be considered in the conditional use application; however, the burden that is set forth by state code trumps county code. The county code puts the burden on the applicant to prove that these effects can be mitigated. The state code flips the burden. If they are going to deny the conditional use permit, they have a greater burden to establish that they cannot mitigate the reasonably detrimental effects through reasonable conditions.

Ronda Kippen said that a lot of the concerns have been based on water and sewer. It is not part of the land use code to govern water or sewer. Those are privately done through the state and the Health Department. As part of staff's evaluation, they are required to get a feasibility letter from the applicant, which they have done so. Anything outside of that, adequate water, adequate sewer, and those are things that are part of their review; however, they did speak with the Engineering Division, the state, and the Health Department, and they have made it clear in writing that residents within 300 feet of the new service line, will only be required to hookup to the sewer district when they have the need to replace or repair their existing septic. New development would be required to hookup but existing homes would not be required to hookup into that service line until such a time that they have to replace their septic system.

Commissioner Warburton said in their packet they received a letter from someone addressing the noise that takes place. In the original application in 2006, it stated that it was not going to cause noise; is there something that states that they have any jurisdiction over that? Director Wilkinson replied that they have worked closely with the individual that wrote that letter over the years; and there have been problems. He didn't know if currently that is an issue. There were certain decibel levels assigned in the approval, and if that has exceeded those levels, it can be brought back to the Planning Commission.

Commissioner Haymond asked if was up to the Planning Commission to determine any of the detrimental effects specific to the application. Dustin Parmley replied yes, the standards and conditions that they can impose have to tie back in some way to standards in the code that they have enacted in the land use code.

Commissioner Warburton said there has been concerted effort on becoming Dark Sky accredited in that area but it is not in the code at this point. Director Wilkinson replied that they have a lighting ordinance in the Ogden Valley. All of the lights associated with this development will have to meet the criteria in the code which means they will have to be shielded downward. She asked if they could enforce the accreditation standards. Chair Hollist replied as he understood, the accreditation process that they are going through is for North Fork Park, but there is an extension of that work is to extend that to the rest of the valley so they can all see the stars. The International Accreditation that is in process is restricted to the boundaries of North Fork Park.

Ronda Kippen said that as far as height the only area in the code that specifically goes over some visual impacts of height is on the ridgeline and that's with the skyline; that is the only area in the code that is specific to the skyline and that is not in this proposal. Chair Hollist asked if she could look at the purpose and intent of the CVR-1 Zone and after the applicant has made his presentation, he would bring her back to read the purpose and intent.

Dustin Parmley said he could read that now; *"Section 104-11-1, Subsection A, the purpose of this zone is to provide location in the Ogden Valley and at major recreation resort areas for service facilities and goods normally required by the public in the pursuit of general recreation activities can be obtained. Subsection B, in this role even though the area is primarily commercial in nature, it should be compatible with the general surrounding natural environment. To this end, the general siting and architectural design of buildings and structures; the layout of parking areas and landscaping shall be subject to review and recommendations from the public agency, design review, and approval by the Planning Commission to ensure that the natural environment is preserved to the greatest possible extent."*

Josh Richards, who resides in Eden, CEO of Skyline Mountain Base, Nordic Valley Ski Area, said that they did not want to be a burden and that they have gone through substantial lengths to provide a building that fits the environment, and that this

is not detrimental. The ski area sees anywhere between 35,000 to 50,000 skiers a year, in addition to those skiers, there has not been a quantifier for visitors for the summer time, for mountain biking and hiking, and all sorts of activities. There could be about 75,000 to 80,000 visitors coming to our mountain every year; these are the people that are interested in the units, have an interest in the area, and they don't want to see us make a mistake or purchase a mistake. They need to keep in mind the potential of the valley. They offer similar product to people that are using the mountain; it offers an amenity that is needed. Currently, there is no place to stay for visitors that come to the Ogden Valley. If they would go and look at the Convention Visitors Bureau, they have upwards of two million people coming to the valley on an annual basis. As of today, they are sitting at nearly 40% reserved in this building and they started about a month ago. They don't have the ability to take money on a permanent basis; they can take reservation money in, which they have taken in over \$100,000.

Josh Richards said that as far as being left with that building; this building is going to be at 100%. This building will be at 200% reserved by the time they are ready to build, based on their current reservation schedule. This shows a need and a demand of 50,000 visitors that are already coming to the mountain. They would like to stay at Snow Basin and Powder Mountain, but they can't. Nordic Valley provides a central location in a building where they could drive to world class ski areas. As for the size of the building, if they look at other ski areas, they are less than half, and this has been designed with the valley in mind. That is directly in line with Nordic Valley and what it would become. In reference to the business space, they don't have adequate space in the valley right now to lease or rent for their current operation. That business space belongs to him, and the conference area has a pool table for people to come in and unwind; that is not space to be occupied. To address the temporary trash, they don't want for it to be an eyesore, so if they put it someplace temporarily. All the stuff that they are implementing in the building is done by choice; with the beautiful glass, natural wood, natural stone, and water features. You require 25% landscaping and he is giving 57%; this is an act of goodwill to the county and to the people that live in that area. This area is going to get a \$13,000,000 investment in beautification to lift the entire community. The value of other properties in the area will not go down and in fact property values will double or triple in value. These 56 units is a fraction of the demand that they are receiving from phone calls and holding their money in escrow.

Chair Hollist asked if the reservations that Mr. Richards has received, is that a result of this advertisement; what lead him to advertise prior to being approved? Josh Richards replied this is correct and the reason for advertisement is that they don't want to take the same financial risk that the Planning Commission doesn't want them to take. The harsh reality is they have to know what the demand is. Every contract they have taken is a non-binding contract for either side to withdraw at any time. For them, that is literally a \$100,000 investment to see if this is a smart business idea and they are doing this at their own risk.

Commissioner Warburton asked when you said 35,000 to 50,000 skiers, how many of those are new skiers. Josh Richards replied that they don't count season pass holders in those figures. With their season pass holders, they generally have about 1,200 and they could have about 10,000 before Christmas time. Looking at the trend among all ski areas, every year there is a 10 to 25% movement toward summer sports. Nordic Valley has Whistler which is a banner for mountain biking in the business.

Commissioner Warburton asked if he has looked at the plans for Snowbasin and Powder Mountain; and what would that many units do to his value, and how he will be able to compete with that. Josh Richards replied that they hired the same person Snowbasin did to help them reach their potential. By the time Snowbasin breaks ground, if they are able to move forward, they will have used this building and the proceeds from this building to put in multiple new lifts. Nordic Valley will be looked at as the central choice and they can compete with price and with product.

Commissioner Parson said it seems that you are trying to take advantage of as much of that real estate as it comes out of Pine Creek Canyon, and not knowing where the setbacks are, he needs to put in some massive trees because the traffic comes from either side. Josh Richards replied that the traffic only comes in from Nordic Valley Drive, and the egress and ingress is right on the road. As stated earlier, they have gone through great lengths to double the landscaping. They have also buried all the parking and it has cost them \$20,000 for each of those 100 parking stalls. From a visual aspect, as the trees come forward on the road, the building is toward the back and it becomes smaller. As to the big trees, they are more than willing to add them.

Chair Hollist read two sentences from Weber County Conditional Use Permit application submitted by Greg Jensen on behalf of Skyline Mountain Base LLC; *"whereas we have not requested anything that is out of the norm for a ski area, other than the*

height of our proposed building is much lower than that of a typical residential building at a ski area." The assumption is Alta, Park City, and Snowbird residential areas. The next sentence, *"whereas we're not blocking the views of surrounding properties, and whereas creating such building replaces much older structures and the utility yard, the proposed building is a huge improvement to that which currently exists on the same property."* Josh Richards replied not knowing what Mr. Jensen was thinking, it is much lower there where it is 130 feet at Snowbird. As to the second sentence, there is a mistake there that it doesn't block the view of anybody. There is a partial view blocked by a resident. As to replacing the buildings, they are in need to repair, and with the \$200,000 per season at Nordic, there is absolutely no money to fix anything. When they bought this property, he was told that money was spent to fix this property but that was not the case. They have spent over \$100,000 to date to make the lifts safe. He does understand the resistance from people that are not used to being next door to a ski area. As these old buildings are replaced with the top of the line structures, they will see the value and the potential of the area. This improves the area economically, visually, and also safety as there are people working in these old buildings.

Commissioner Haymond said that there is a need for nightly rental in the valley in that area. There is a will serve letter for water, but it has a feasibility letter that's been done that there is no guarantee in water pressure. Josh Richards replied that they have made an investment in two competent engineering firms, to come look at what the state has said, to look at the pressures and the flows. What they found was that they were able to service more than what they were asking for, by at least 150 units and that would still be good. They spend the money with two different engineers, two different studies, to come to the same conclusion that their water flow is going to be fine. Fire suppression is going to be top notch and the system that they are going to put in is called NFBR-13. The Fire Chief said that this was not one that was necessarily required but if they put it in, it was good. This has everything to do with safety and they have an interest in protecting their mountain as well as the residents.

Chair Hollist said it is not the fire system; it is the ability to supply 1,000 gallons per minute for 120 minutes, or 1,800 gallons for per minute for 120 minutes. Josh Richards replied that he would have to refer to his engineers and he would find out, but he believed that those numbers were provided by Nordic Mountain Water.

OPEN FOR PUBLIC COMMENT

Lee Schussman, who resides in Eden, said he wanted to clarify the concern that they have and he understood that the operation of the sewer system is outside the purview of this group, but part of the granting of this conditional use permit was based on the letter from the Wolf Creek Sewer District that said they could handle the sewage from this new facility. Staff has been very helpful in helping us with the previous permitting of the Wolf Creek Sewer, which said they would operate under certain conditions; it did not. They found that they had no recourse in retrospect other than to make sure when it is under the conditional use permit, which it is under your purview to grant, that the Wolf Creek Sewer System can handle that. In the past, the problem has been when it had increase flows, it was unable to handle those without problems. He just wanted to ask that they make sure in the conditional use permit that there be some recourse if the system could not handle that load. He thinks that a group of investors bought a piece of property as an investment speculating on their ability to change the law from 25 to 35 feet to an average of 55 feet; and it is within the purview of the Planning Commission to look very carefully, as it would have a major impact. He would urge them to delay granting a permit right now. There could be several rooms of people who have concerns about the visual impact which is clearly outside anyone's radar.

Steven Clark, who resides in Huntsville, said that his concern is about water and they can't guarantee that there is enough water today, and after sending them the information, there is not enough water in the future. He also has concerns about the snowpack because in the consensus that he sent, all the opinions of those climatologists are suggesting that snowpack is decreasing. An article in the University newspaper recently stated that by the end of 30 years, most of the ski resorts may have to shut down because the snowpack will be a shorter duration. Most of the precipitations will be coming as rain instead of the snow and the quality will not be as good. The other issue he has is the soil, and the site that they are building on, and he would strongly suggest that this Planning Commission get an outside opinion of water and of geology from someone other than who is being paid by the developer. He is concerned about the wildlife; there are a lot of people that love to hunt and fish, and these developments are destroying habitat right and left around this valley.

Dennis Craig, who resides in Liberty, asked in regards to fire safety; if Weber County has the necessary equipment that can service a building that at the highest point is 71 feet high, and if not, will that obligate Weber County to buy equipment to service a building that high? Also in regards to the lockout units relative to parking spaces, right now they are talking about

two parking spaces per main unit. Let's say it's a holiday all the units are sold and occupied, and that the occupants have sub-rented the lockout unit, where are these vehicles going to park? The lockout unit will not be considered as part of the main dwelling but it should be included as part of the formula for the parking units required. The third issue is the height of the building, and if you look at the Moose Hollow buildings in the open space, those look higher than the 54 feet on the side of the mountain.

Jeff Stokes, who resides in Liberty, said that they can't compare this too much to the other resorts because the development is being done in the middle of a residential area. The lockout units will have an impact even if they don't go against the total number being allowed in traffic, utility, and the noise. If this Planning Commission allows this height of buildings, the developers have other pieces of property where they will continue to build this style of building because that is what was allowed the first time. It will be too easy to stop that ball on the next phase that comes in. It definitely has a high impact, especially the neighbors, as they see nothing but their buildings. In reference to Mr. Richards comment, "*this will three-fold our property values,*" that only applies if they are selling the property, but if they live on that property, all that does is raise their property taxes.

Jerry Johnson, who resides in Eden, and is a member of the Valley Citizens for Responsible Development, said the height of the building of 71 feet on the front of the road there is only a 30 foot setback. The numbers of parking units are off as they are not including employees working there as well as parking for the lockouts. The traffic impact of all those extra units is a concern. The sewer is another problem with the people's property rights that are going to be affected along the sewer line; it will be inevitable that they will have to hookup to that sewer line and it will cause a tremendous burden to the people there.

Ron Gault, who is Chairman of the Huntsville Planning Commission, said that they are very interested in the concern with the Planning Commission hearings and with Ogden Valley in general. They have also struggled with conditional use permits in Huntsville Town and the various impacts. It seems that that height issues are what everyone here seems to be concerned with. When this commission approves a conditional use, you are going to set precedence, and you need to consider that. There needs to be some extenuating circumstance that you can defend your decision to allow that conditional use; it opens the door for further issues for the next people that apply for a conditional use.

Kim Wheatley, who is a member of the GEM Committee, said he wanted to clarify the lighting ordinance only applies to commercial, and in looking at the lighting for this proposal, they have done a nice job in using the fixtures that they looking for in the development. The one thing that he has recognized is getting the notices out just a few days before Thanksgiving, to prepare for this meeting where there is game changing precedence is not a good practice. The density is a big issue where Mr. Ewert doesn't count the lockout rooms in the 2,400 units where he projected the maximum build out is not considered. There are two different aspects; one is the condo one is the lockout rooms, and there they can demonstrate a clear damaging impact on the valley. They will set precedence here with regard to traffic, pollution, and everything that goes with all of the extra units. The density issue is scattered throughout conditional uses where they have lockouts that don't count as density, and it will set precedence and the maximum density will be greater than 24,000.

Richard Webb, who resides in Liberty, and on behalf of Skyline Mountain Properties, who is a partner to the south of the Nordic Valley area, said he is concerned that the ski industry has gone down over the last five years by a half percent and it's not predicted to be a gang buster growth business. They have to compete with Snowbasin and Powder Mountain and Nordic Valley doesn't have the vertical foot drop. Most people are not going to spend a lot of money on a condo for a season that's half the length of Snowbasin and Powder Mountain. He supports Mr. Wheatley in regard to what he stated. It's really important to know how many resorts this developer has done. To be successful they need to put in a golf course and as for mountain biking that is not huge revenue. They've done an echo on that side of the mountain and any development on that mountain is high risk. He believes that needs to seriously be looked at.

Ron Gleason, who resides in Huntsville, said there is one thing that this Planning Commission should consider if they feel that this needs to be approved and moved forward; there has been a verbal commitment made by from Weber/Morgan Health Department stating that the law as it is written does not apply to certain people. He would ask that they get that in writing, that the people affected by that should get a copy, in case something happens in the future. What about the lot owners who want to build new; will they get the same disposition and be able to put in their own septic system? If this project is approved, he suggests that they put in a condition that this needs to be in writing, it has to be clear, and it has to deal with all circumstances.

Peter Turner, who resides in Eden, said he would like to see Nordic Valley make a go of it and build what might turn out to be a nice lodge and a nice place to stay. He does have concern about the height even if they are going to mitigate it with trees. It is the concern that this commission might set precedence because mitigation can be opened for interpretation. Taller buildings create more light pollution for that property. He concurs with Mr. Wheatley and believes that the lockouts are a mistake.

Ray Bertoldi, who resides in Eden, said his point has to do with context in the terms of the master plan and the terms of the rest of the property and how this is integrated as an overall resort. In reference to the height, the issue that he sees in terms of massing in scale; they are looking at the massing of the building which seems to be a little reverse in terms of topography, starting up high and continuing that to the street level. Even with a 30 foot setback, they won't be able to hide that building at 65 feet with landscaping. This is not a four-story building with the underground parking; from the street level, this actually creates a five story building.

Shanna Francis, who resides in Eden, said her concern is to the buffer zone; their buffer is 100 feet to the nearest building, which is owned by them. Her property has a 300 foot driveway and it's not very visual but with this development it would be visual, and she hoped that would be a consideration. She hoped that when the commission is making their decision that they stick to the facts regarding what the issues are. Does the master plan come into the vision of the rural atmosphere and do they just have to comply with the zoning ordinance?

John Reeves, who is the engineer on this project, said that he used to be the County Engineer when they fought the large snowstorms and floods in the past. This is a cycle when you look back at history. They have a letter from Nordic Valley Water; and he called the state Water Division to give him a synopsis on their water system; they are way overbuilt and have three times the storage they need to have. As far as Wolf Creek, their present treatment plant has been built for 2,000 connections and they currently have 1,000 connections and it is not a concern. They talked about the extra parking going in; the building is twelve feet higher because the parking is underneath, out of sight and out of mind. The overflow parking is in the parking lot and they have plenty of room. That is a consideration.

Commissioner Parson said that he had concerns with the height and the mass, and as he looked at the lockouts, there are 54 Bed and Breakfasts. If they can have a lockout unit and treat it like a rental pool, it seems to be a commercial aspect.

Commissioner Parson asked to be excused from the meeting at this time.

Dave Gordon, who resides in Eden, said that as far as mass and putting a building at 71 feet, they are looking at that as the lowest possible elevation of Nordic Valley, and as that continues up the hill, what does 71 feet look like? What will the other buildings look like as they move them up the hill? When Mr. Reeve's talked about 1,000 connections to sewer system, and he's heard that there will be from 470 to 500 condo units and that does not include lockouts, that is going to take 1,000 just for their project and doesn't even include the residents that they are talking about hooking up at a later date.

Closed for public comments

Josh Richards said it was important to share these comments so that they can utilize them before a meeting like this and not before or after. He addressed the lockout units have a certain number of beds; they didn't get more beds or bathrooms. The same number of people can sleep there unless they opt to sleep on the floor, and yes they may have additional people stay. When they count the number of beds, they are talking about a Murphy bed coming out of the wall, a couch, or any place a person could potentially sleep. The only difference is that they have a door so both have privacy. That's a lockout; same bed, same bath, same space, and same number of people staying in general. A lockout is not the doubling up of people, unless there are those that will be rolling out the sleeping bag. This is a project and there will be success with this project. As far as building has high as they could, they didn't ask for that, they asked for four stories above the parking level. As for game changing precedence, because they have to have the CVR-1 Zoning to be able to do this, it will not be a problem. They are a ski area and they are asking for a lodge, a place for people to stay. They are trying to do it in a way that is conservative. It seems like a large building for this area and it is, but placed where it is proposed becomes small again. In 2006, a building nearly identical to this at Wolf Creek was approved; it was similar in height and size, and he's just asking to put the emotions aside. There is a conditional use permit for this specific product.

MOTION: Commissioner Warburton moved that they table CUP 2014-29 until the next scheduled work meeting and there are things that she couldn't decide and there are many questions that need to be answered. Such as how many units are allowed on this property. Could they do a DRR-1 Zone, and would that be better. She believes that there needs to be more discussion; it's not based on public clamor, and this is a very critical decision that requires more discussion. Commissioner Miller seconded.

DISCUSSION: Commissioner Graves said that having some kind of a master plan would help in dealing with this and he was not sure that would be something they could ask for. Director Wilkinson replied that they can ask, but that is something that as staff they cannot require. It's been brought up several times the context of what we're planning, but the zoning is in place, there is not a Zoning Development Agreement associated with that zoning. They cannot impose something outside of what is allowed by that zone. Their hands are essentially tied; the zoning was in place years ago. Dustin Parmley added the fact that they elected the mechanism of a conditional use permit, that's their choice entirely and that's allowed by law. We are required to follow the legal standard for a conditional use permit because that's the mechanism they have elected to pursue to move forward for this development project. Commissioner Miller asked what they would need in place in order to require a master plan; will that mean that they would have to go through the process of becoming a designated resort. Director Wilkinson replied if they wanted to do that. The problem is the applicant does not currently have enough property. If they were to rezone and they were to ask for something outside of what the zoning allows, that's when that opportunity would open up. Dustin Parmley said that even if they had enough property, it would be at their election, and it would not be something that this body could require of them.

Commissioner Miller asked that if they were to grant this, these buildings could be as tall as 10 stories high. Could they go back in and change the ordinance at a later time? Director Wilkinson replied that would not affect this project but they certainly could do that and that would be a discussion they could have at a work session. Ultimately the County Commission will make a decision if the Planning Commission recommends something to them.

Chair Hollist said that this is a legislative matter and it is appropriately suggested, and the motion to table, allows them to consider that, not for this applicant, but for future applicants.

Commissioner Graves asked for clarification on the reason for tabling. Do they have any instructions for the applicant to provide more information for us to consider that they don't have in order to table? Director Wilkinson said specific conditions are generally applicable with a motion to table. Commissioner Graves said that he was not opposed to tabling, but they need to provide specific direction to the applicant to provide more information. Commissioner Warburton said that what she is not hearing from the applicant what is going on with the rest of the property without asking for a master plan. She has not heard from staff on how that works and if there are many options that they can look at. She would like this commission to have a work session to look at some of the options, such as do they want a bigger footprint on the land to be able to lower that. They have a law that they have to follow, and there are things here that cannot be addressed and are outside their ability to rule on.

Commissioner Miller said since they can't have a master plan, could they have some kind of vision that the applicant sees as the next steps, with some sense of where they are going, and how many units they can build? Ronda Kippen replied that the only piece property owned by Skyline Mountain Base, that is zoned CVR-1, is the 12.29 acres that is at the base. They will utilize the same footprint for this building to identify how much acreage we need. Across the street next to the barn is the CVR-1 Zone that goes from the southernmost property line that's adjacent to Nordic Valley Water and it's the Stokes' property north past the barn. In the packet on Map 2, the subject property is the rectangle along Nordic Valley Way; that is the only parcel that is zoned CVR-1 for this type of commercial development. Commissioner Warburton said that the applicant has the right to build, and we can't deny the use but there are a lot of questions. Commissioner Miller said that she would like to have a conversation, that if they approve this, how do they change the ordinance so that is something they can live with in the future. Director Wilkinson indicated that the discussion needs to be focused on the application, but if there are specific things for the applicant to do before the next Planning Commission meeting, please state those, so when they have the next meeting, there is something that can be presented to satisfy the concerns that the Planning Commission has. Dustin Parmley said part of the concern with getting into the other topics, was not properly noticed and on the agenda for discussions amending the land use code, and they are straining in areas that they shouldn't without given proper notice.

MOTION: Commissioner Warburton called for the question, which ends debate. Commissioner Miller seconded.

VOTE: A vote was taken and Chair Hollist said that the motion did not pass by two thirds of the majority.

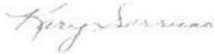
MOTION: Chair Hollist that he would like to have the applicant comment at the next meeting. This is a game changer for the light, the size of the lantern that would be pushed into the sky that close in proximity to North Fork Park, which may in fact jeopardize the Dark Sky International Recognition. Secondly, he would like to know whether Weber County has the fire equipment presently on hand that can handle a 71 foot structure without the purchase of additional equipment. Thirdly, he would like to know the legal interpretation of a lockout, not the opinion; the legal interpretation of a lockout as a separate dwelling. Finally, he would like to know the impact as far as noise and dust of a development of this caliber in a residential area.

DISCUSSION: Director Wilkinson said that this will not be a work session item; this will be back on the agenda for action. The next meeting we have will be a work session. Commissioner Warburton said that as far as lighting goes, it is already an ordinance, which they have already met that requirement. Dustin Parmley said that light can be considered as far as the minimum standard for a permitted use. It is something that you can take into consideration and impose reasonable conditions to mitigate detrimental effects. Director Wilkinson said that where this is an application for a conditional use permit, we have to respond according to what the code says and it will be in a meeting where you will make that decision. Commissioner Warburton suggested that the people contact Ronda and send in their fact-based comments and contact their neighbors as this has already been noticed. Director Wilkinson clarified that the first meeting will be January 6, 2015.

VOTE: A vote was taken with all members voting aye. Motion Carried (5-0).

3. **Adjourn:** The meeting was adjourned at 9:00 p.m.

Respectfully Submitted,



Kary Serrano, Secretary,
Weber County Planning Division



Staff Report to the Ogden Valley Planning Commission

Synopsis

Application Information

Application Request: Consideration and action on a Conditional Use Permit (CUP) 2014-33 for a golf cart storage building in the Open Space (O-1) Zone.
Agenda Date: Tuesday, January 06, 2015
Applicant: Wolf Creek Utah LLC, John Lewis Representative
File Number: CUP 2014-33

Property Information

Approximate Address: 3844 North Wolf Creek Drive
Project Area: 95.89 acres
Zoning: Open Space (O-1) Zone
Existing Land Use: Golf Course
Proposed Land Use: Storage building for the Golf Course
Parcel ID: 22-016-0074
Township, Range, Section: T7N, R1E, Section 22

Adjacent Land Use

North:	Golf Course	South:	Golf Course
East:	Golf Course	West:	Golf Course

Staff Information

Report Presenter: Jim Gentry
jgentry@co.weber.ut.us
801-399-8767
Report Reviewer: SW

Applicable Ordinances

- Weber County Land Use Code Title 104 Zones Chapter 21 (Commercial Valley Zones CV-1 and CV-2)
- Weber County Land Use Code Title 104 Zones Chapter 26 Open Space Zone (O-1)
- Weber County Land Use Code Title 108 Standards Chapter 2 (Ogden Valley Architectural, Landscape, and Design Standards)
- Weber County Land Use Code Title 108 Standards Chapter 4 (Conditional Uses)
- Weber County Land Use Code Title 108 Standards Chapter 8 (Parking and Loading space, Vehicle Traffic, and Access Regulations)
- Weber County Land Use Code Title 108 Standards Chapter 16 (Ogden Valley Lighting)
- Weber County Land Use Code Title 110 Signs Chapter 2 (Ogden Valley Signs)

Type of Decision

Administrative Decisions: When the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has much less discretion. Examples of administrative applications are design reviews, flag lots, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria.

Background

The applicant is requesting approval of a Conditional Use Permit for a Golf Cart Storage building on 95.89 acres in the O-1 Zone. The proposed building is 40 feet by 60 feet (2400 square feet) with a future expansion area of 12 foot by 60 feet for a green house and a C.E.R.T. storage area. This metal building will have a wood siding and wood

barn style doors on the outside. The roof is metal and will be painted a dark brown. Quaking Aspens, cluster of Quaking Aspen and Yellow Yarrow will be planted on the northeast side of the building.

A new asphalt parking lot with 42 parking stalls is planned to the south of the existing parking lot. The applicant will be planting the same type of trees as above along the front of the parking lot that faces Wolf Creek Drive and install rocks and boulders to define the parking area and to prevent parking outside of the lot.

There is small corner of the property that is zoned Commercial CV-2 which will allow a monument sign. The applicant will have to show that the sign is located within the CV-2 zone. The new sign is 4 foot wide by 8 feet tall and will be located 10 feet from the Wolf Creek Drive right of way near the entrance to these buildings. The sign will have aluminum letters with a white enamel finish, stud mounted to the steel box. The steel box will have a weathered look. The sign will be illuminated with landscaping lighting. The lighting has to meet the requirements of the (Weber County Land Use Code Title 108 Standards Chapter 16) Ogden Valley Lighting.

Summary of Planning Commission Considerations

The Planning Commission needs to determine if the conditions of approval are adequate for this use. In making these determinations, the following questions should be considered:

- Does the proposed use meet the requirements of applicable Land Use Code?
- Are there any potentially detrimental effects that can be mitigated by imposing conditions of approval, and if so, what are the appropriate conditions?

In order for a conditional use permit to be approved, it must meet the requirements listed under "Criteria for Issuance of Conditional Use Permit." The Planning Commission needs to determine if the proposed use meets these requirements.

Sec. 108-4-4 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 Land Use Code and other applicable agency standards for such use.

After reviewing this conditional use request staff has determined that the criteria listed above have been met in the following ways:

1. The potential detrimental effects of this golf cart storage building to odor, vibration, light, dust, smoke, or noise. There will be none. The building will be used to store golf carts when not in use. The building will be expanded in the future for a green house and C.E.R.T. storage area. There will be no additional impacts as this use is currently being conducted in a building at this location.
2. That the proposed use will comply with the regulations and conditions specified in the Land Use Code and other applicable agency standards for such use as follows:
 - The building will be metal with wood siding and wood sided doors and the metal roof will be painted a dark brown.
 - There will be new landscaping planted along the northeast side of the building and along the front of the parking lot that faces Wolf Creek Drive.
 - The new parking lot will be asphalt and have 43 parking stalls that meet the required size standards.
 - The proposed sign is allowed in the Commercial CV-2 zone. The applicant will have to meet the setbacks and stay within the CV-2 zone.

Conformance to the General Plan

The proposed use complies with applicable County Ordinances and the Ogden Valley General Plan.

Conditions of Approval

- Requirements of the Weber County Engineering Division
- Requirements of the Weber County Building Inspection Division
- Requirements of the Weber Fire District

Staff Recommendation

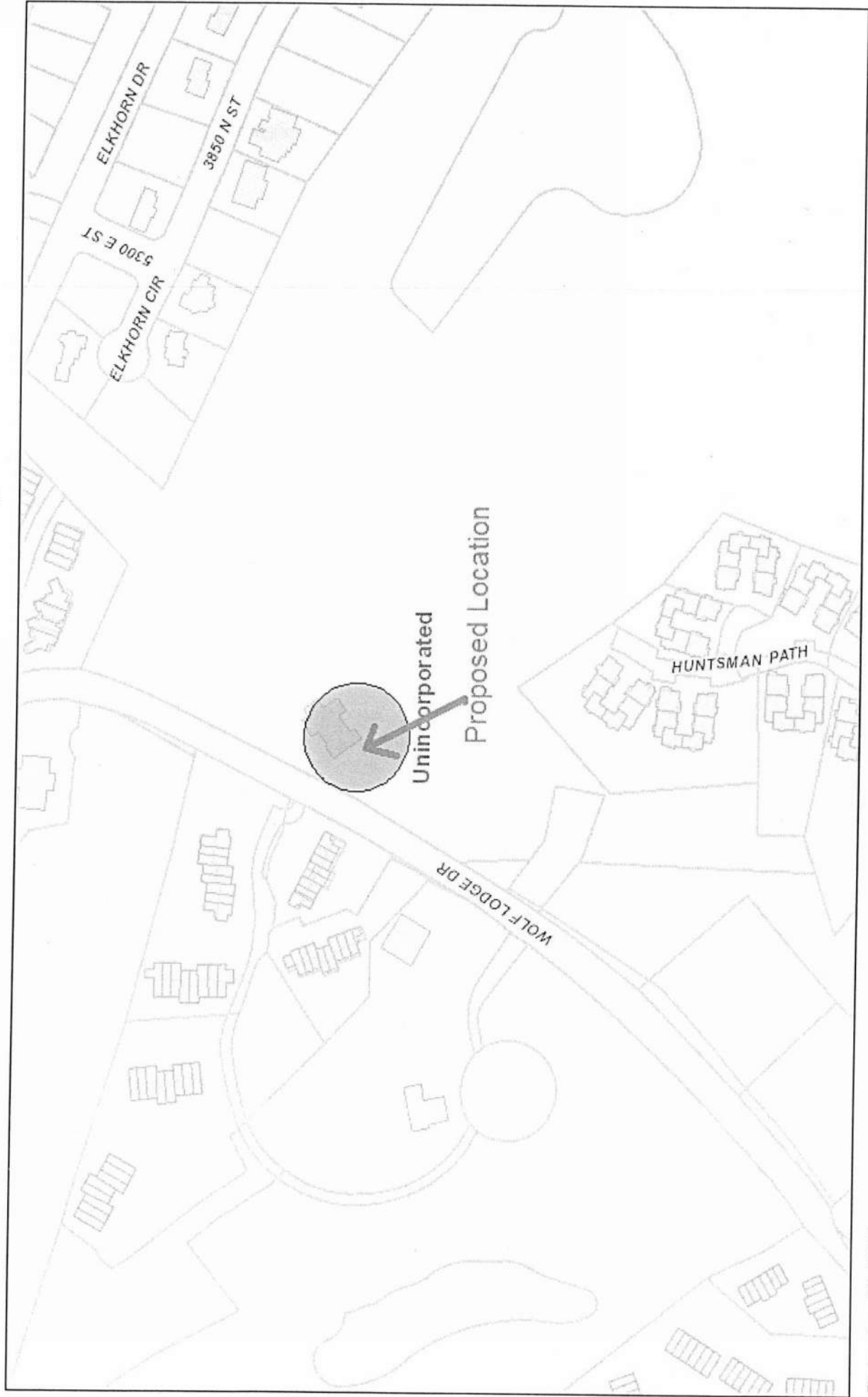
Staff recommends approval of CUP 2014-33 for a golf cart storage building in the O-1 Zone, subject to staff and review agency requirements. This recommendation is based on the proposed golf cart storage building complying with applicable Land Use Code standards as listed in this staff report.

The decision of the Planning Commission may be appealed to the County Commission by filing such appeal within 15 days after the written decision of the Planning Commission.

Exhibits

- A. Location Map
- B. Site plan
- C. Applicant's narrative
- D. Building elevations

Wolf Creek Golf Cart Storage

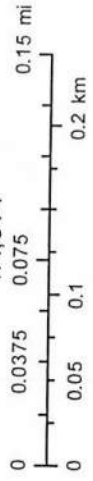


December 15, 2014

Street Labels

City Labels

1:4,514

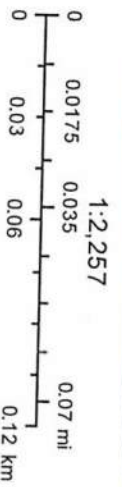


Enter Your Title



December 15, 2014

-  Parcels
-  Street Labels
-  Zoning Area
-  City Labels
-  Parcel Address



Weber County Conditional Use Permit Application

Wolf Creek Golf Maintenance Storage

Project Narrative Addressing Follow Up Questions

Wolf Creek Utah LLC is proposing a new storage facility for golf carts and maintenance equipment. Located on the east side of the existing parking lot at the Wolf Creek maintenance facility, the 40' x 60' (2,400 SF) structure would provide additional storage for the golf course operations. The attached site plan also illustrates a 12' x 60' area along the east side of the building that could potentially provide space for a future greenhouse and a dedicated area to house emergency community CERT supplies. The height of the structure will be 24'. Electrical and water utilities will be brought to the building.

The project is located in the O-1 zoned part of the parcel and will be an accessory building to the golf course. However, the purposed sign is shown in the CV-2 zoned area of the parcel. The architecture exhibit provides additional details but the structure will consist of a dark brown colored metal roof with wood exterior siding. The site plan illustrates the purposed landscaping plan that incorporates new and existing vegetation. Additional parking of 43 stalls will be provided on an asphalt surface with a boulder boundary on the exterior of the parking area. No exterior lighting is being purposed as part of this conditional use submittal.

All Weber County ordinances, standards and regulations will be followed.

Weber County Conditional Use Permit Application

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

Date Submitted / Completed	Fees (Office Use) \$225	Receipt Number (Office Use) 3525	File Number (Office Use) CUP 2014-33
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Property Owner Contact Information

Name of Property Owner(s) WCU LLC (John Lewis)		Mailing Address of Property Owner(s) 3718 N Wolf Creek Drive Eden UT 84310	
Phone 801-430-1507	Fax		
Email Address (required) john@wolfcreekresort.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) Eric Householder		Mailing Address of Authorized Person 3718 N Wolf Creek Drive Eden UT 84310	
Phone 801-389-0040	Fax		
Email Address eric@thg-cs.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Property Information

Project Name Wolf Creek Resort Golf Cart Storage		Total Acreage 95.89	Current Zoning O-1
Approximate Address 3844 North Wolf Creek Drive Eden, Utah 84310		Land Serial Number(s) 22-016-0074	

Proposed Use
Golf Cart Storage and Maintenance

Project Narrative

Wolf Creek Utah LLC is proposing a new storage facility for golf carts and maintenance equipment. Located on the east side of the existing parking lot at the Wolf Creek maintenance facility, the 40' x 60' (2,400 SF) structure would provide additional storage for the golf course operations. The attached site plan also illustrates a 12' x 60' area along the east side of the building that could potentially provide space for a future greenhouse and a dedicated area to house emergency community CERT supplies.

The project is located in the O-1 Zone and will be an accessory building to the golf course. The architecture exhibit provides additional details but the structure will consist of an earth toned colored metal roof with wood exterior siding. The site plan illustrates the purposed landscaping plan that incorporates new and existing vegetation. Additional parking of 43 stalls on an all weather surface is part of this conditional use submittal.

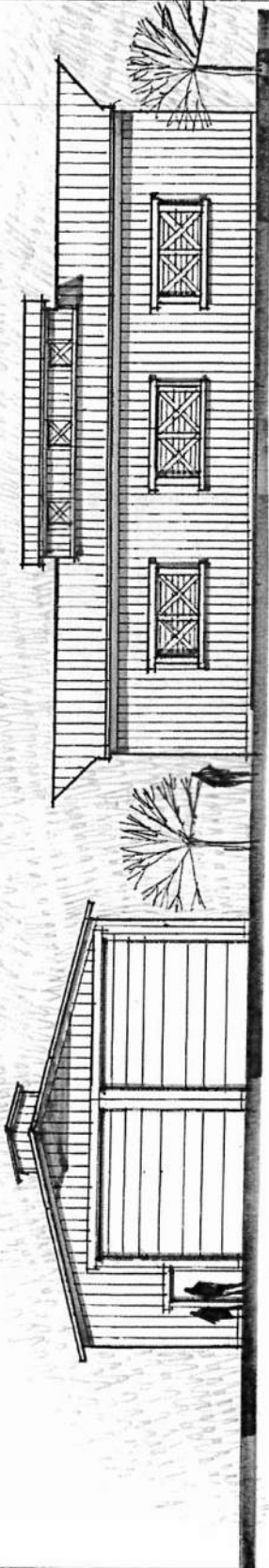
Basis for Issuance of Conditional Use Permit

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.

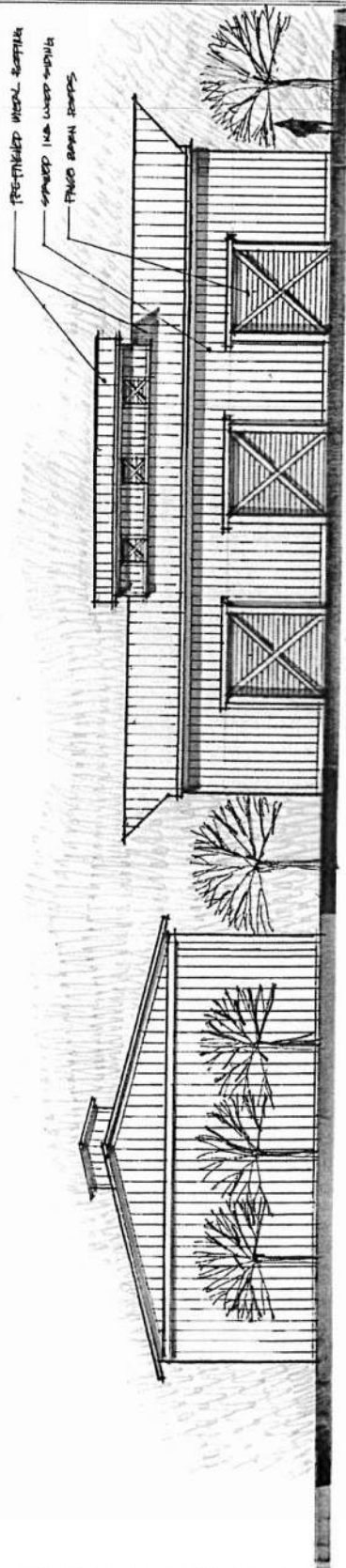
The intent and use of this project is consistent with what is currently being done at this location and should not result in any potential negative impacts.

That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

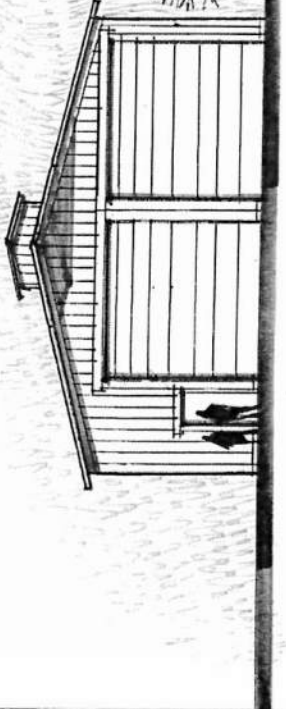
All Weber County ordinances, standards and regulations will be followed.



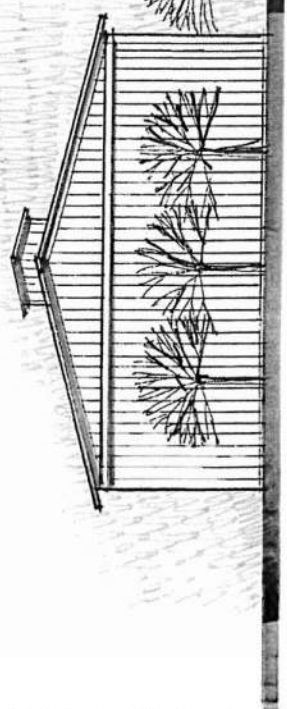
NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: Approval of a conditional use permit for a classic/vintage car dealership known as Blacksmith Garage in the Blacksmith Village located at 2143 North 5500 East Eden, UT

Agenda Date: Tuesday, January 06, 2015

Applicant: Horseshoe, LLC

Authorized Agent: Shawn Clegg

File Number: CUP# 2014-34

Property Information

Approximate Address: 2143 N 5500 E

Project Area: 1.31 Acres

Zoning: Commercial Valley-2 (CV-2)

Existing Land Use: Commercial Development

Proposed Land Use: Commercial Development

Parcel ID: 22-047-0040

Township, Range, Section: Township 7 North, Range 1 East, Section 34

Adjacent Land Use

North: Residential/Commercial	South: Agricultural/Residential
East: Park/Recreation	West: Agricultural

Staff Information

Report Presenter: Ronda Kippen
rkippen@co.weber.ut.us
801-399-8768

Report Reviewer: JG

Applicable Ordinances

- Title 101, Chapter 1, General Provisions, Section 7, Definitions
- Title 102, Chapter 4, Land Use Permit, Building Permit and Certificate of Occupancy
- Title 104, Chapter 21, Commercial Valley (CV-2) Zones
- Title 108, Chapter 4, Conditional Uses
- Title 108, Chapter 7, Supplementary and Qualifying Regulations
- Title 108, Chapter 16, Ogden Valley Lighting
- Title 110, Chapter 2, Ogden Valley Signs

Background and Summary

The applicant has requested approval of a conditional use permit to operate a classic/vintage car dealership in the Blacksmith Village located at 2143 North 5500 East Eden, UT (see Exhibit A). The request is conditionally allowed in the CV-2 Zone and is further restricted by the Zoning Development Agreement C2013-197 which limits the conditional use to "Automobile (Antique Only) Sales/Service" (see Exhibit B).

The Blacksmith Village was rezoned from the AV-3 and the CV-1 zone to the CV-2 zone on June 23, 2008 to allow for the expansion of commercial development around the historic Blacksmith Shop located in Eden. As part of the rezone request, the applicant and Weber County entered into a Zoning Development Agreement to ensure that the desired conceptual plan was brought to fruition. The Zoning Development Agreement has been amended to allow for modifications to the conceptual plan and the project completion deadline. The current agreement identified as C2013-197 has been recorded with the Weber County Recorder as Entry# 2644723. The Ogden Valley Planning Commission approved the design review for the Blacksmith Village on March 22, 2011. Minor architectural amendments have been administratively approved by the Planning Director on September 10, 2012 and November 8, 2013.

Temporary occupancy has been granted for the building and the site improvements have been installed and approved by the applicable County reviewers with the exception of stripping the parking lot. The applicant will need to complete the required site improvements and receive a final Certificate of Occupancy prior to receiving a business license for the proposed business.

Conditional use permits should be approved as long as any harmful impact is mitigated. The Uniform Land Use Code of Weber County, Utah (LUC) already specifies certain standards necessary for mitigation of harmful impact to which the proposal must adhere. The proposed application appears to meet these standards. The following is staff's evaluation of the request.

Analysis

General Plan: The Ogden Valley General Plan identifies the need to encourage commercial development in the Ogden Valley by balancing commercial development and residential growth in such a manner that does not detract from the area's character. (see the 1998 Ogden Valley General Plan § 5 Commercial Development).

Zoning: The LUC §104-21-1 has identified the need to provide suitable areas for the location of various types of commercial activity needed to serve the people of the Ogden Valley. The CV-2 zone has been established for "General Commercial" and can be further described per the LUC §104-21-1(c) as follows:

"The CV-2 Zone (General Commercial) has been established for the purpose of providing a broad range of commercial services and goods to serve a larger region of the county like the Ogden Valley. Areas with CV-2 zoning have a principal patronage which originates throughout the Ogden Valley or is due to recreation in the Ogden Valley. CV-2 areas are to be a commercial hub or node of activity. These areas, as outlined in the General Plan, are to be near the traditional town centers of the Ogden Valley and not to be strung out along the highways. Uses in the CV-2 Zone may provide goods and services not typically found amongst commercial areas within resorts including automobile sales and service, sporting goods, service stations, hotels, and professional offices."

Conditional Use Review: The request for a classic/vintage car dealership known as Blacksmith Garage to be located in the Blacksmith Village is conditionally allowed in the CV-2 zone per LUC §104-21-5 and the Zoning Development Agreement C2013-197 (see Exhibit B). The automobiles will be displayed and stored inside the building with the exception of special occasions, when the applicant would temporarily display the vehicles outside during business hours. A review process has been outlined in LUC §108-4-3 to ensure compliance with the applicable ordinances and to mitigate anticipated detrimental effects. The proposal does not alter the site or building plans that were part of the required design review previously approved by the Ogden Valley Planning Commission on March 22, 2011. The applicant currently receives culinary services from Eden Waterworks Company and the wastewater disposal, provided by a private septic system on the property, has been approved by the Weber Morgan Health Department.

Design Review: The commercial zone and the proposed conditional use, mandates a design review as outlined in the LUC §108-1 to ensure that the general design, layout and appearance of the building remains orderly and harmonious with the surrounding neighborhood. The property owner has received the required approvals from the County for the architectural design of the building, the site plan including a "Complete Street" design, parking and landscaping that was part of the design review for the Blacksmith Village.

Certain areas of the design review are applicable based on the current application for the proposed use, such as required parking and signage. These areas of review are specific to the type of use that will be allowed in the individual leased space. As part of this review, the Planning Commission shall consider the applicable matters based on the proposed conditional use and impose conditions to mitigate deficiencies where the plan is found deficient. The matters for consideration are as follows:

1) *Considerations relating to traffic safety and traffic congestion.* As part of the original design review, the applicant received approval for a "Complete Street" design with parking located to the rear of the building (see Exhibit C). Due to the specialty use and nature of the business, the applicant has requested the parking requirement be lowered from one space per employee and four spaces for clientele to one space per employee and once space for clientele. According to LUC §108-8-5 the Planning Commission may adjust the required number of spaces if it is determined that unique circumstances relating to the operational characteristic of the use exist in a manner or to such a degree that such adjustment is equitable and warranted. Adequate parking has been provided based on the proposal for a "Used car lot" per the LUC §108-8-4 which requires one parking space per employee plus four parking spaces for client use. Staff feels that the requested parking of one parking space per employee and one parking space for clientele is reasonable and acceptable. A condition of approval has been made part of the Planning Division's recommendations to ensure that the approved parking will be implemented.

2) *Considerations relating to outdoor advertising.* The applicant has provided architectural renderings for the permitted wall sign in the CV-2 Zone that include the location, color, and approximate size of the proposed signage for the conditionally allowed automobile sales (see Exhibit D). The lighting associated with the sign area provides a full cut-off illumination to ensure that no light is emitted above the horizontal plane of the shade which is in conformance with the standards of the LUC §108-16 pertaining to the Ogden Valley Lighting. The applicant will be required to provide actual dimensions to ensure that the proposed signs do not exceed five percent of each unit as allowed in the LUC §110-2-5. A condition has been made part of the Planning Division's recommendations to ensure that this standard is met.

3) *Considerations relating to landscaping.* The required landscaping was reviewed and approved as part of the original design review for the Blacksmith Village. Additional landscaping is not required as part of the requested conditional use.

4) *Considerations relating to buildings and site layout.* The building and site layout were reviewed and approved as part of the original design review for the Blacksmith Village. The improvements have been constructed and installed per the approved plans. Site modifications have not been proposed and are not required as part of the requested conditional use.

5) *Considerations relating to utility easements, drainage, and other engineering questions.* The applicant will need to adhere to all conditions of the Engineering and Building Division prior to receiving a business license for the proposed use.

6) *Considerations relating to prior development concept plan approval associated with any rezoning agreement, planned commercial or manufacturing rezoning, or planned residential unit development approval.* The applicant has received approval from the County for the development of the site and the proposed use is conditionally allowed per the approved Zoning Development Agreement C2013-197.

Conformance to the General Plan

The proposed use conforms to the Ogden Valley General Plan by encouraging commercial development within established commercial areas and enforcing the adopted "quality development standards" to ensure compatibility with the Valley's character.

Summary of Planning Commission Considerations

In order for a conditional use to be approved it must meet the requirements of applicable ordinances listed in this staff report, which include the requirements listed in LUC §108-4-4 under "Criteria for Issuance of Conditional Use Permit" which states:

Conditional Uses shall be approved on a case-by case basis. The planning commission shall not authorize a conditional use permit unless evidence is present 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 Land Use Code and other applicable agency standards of use.*

The Planning Commission will need to determine if the proposal to operate a classic/vintage car dealership in the Blacksmith Village meets the requirements of the applicable Uniform Land Use Code of Weber County. The Planning Commission may impose additional conditions in order to ensure full compliance with the required standards. In making a decision, the Planning Commission should consider the following questions:

- Does the submittal meet the Uniform Land Use Code of Weber County? If no, then what conditions could be added in order to comply?
- Have the "Criteria for Issuance of Conditional Use Permit" and other applicable ordinances been met?

Staff Recommendation

The Planning Division recommends approval of file# CUP 2014-34, a conditional use permit request to operate a classic/vintage car dealership in the Blacksmith Village located at 2143 North 5500 East Eden, UT. This recommendation for approval is subject to all review agency requirements and based on the findings and conditions of approval as listed below:

1. The proposed use conforms to the Ogden Valley General Plan.
2. The proposed use will not be detrimental to the public health, safety, or welfare.
3. The proposed use complies with applicable County ordinances.
4. The proposed use will not deteriorate the environment of the general area so as to negatively impact surrounding properties and uses.
5. The proposed use will not generate additional parking needs and can be modified by the Planning Commission for unique circumstances.

Conditions of Approval

- Actual dimensions for all signage will be provided for review and approval prior to the issuance of the conditional use permit to ensure that the proposed sign do not exceed five percent of the unit.
- The required parking for the classic/vintage car dealership will be a minimum of one space per employee and one space for clientele.
- Requirements of the Weber County Building Inspection Division
- Requirements and recommendations of the Weber Fire District
- Requirements of the Weber County Engineering Division
- Requirements of the Weber County Health Department

Exhibits

- A. Application
- B. Zoning Development Agreement C2013-197
- C. Approved Site Plan
- D. Proposed Signage

Map 1



Map 2



Exhibit A- Application

Weber County Conditional Use Permit Application

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

Date Submitted / Completed	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) HORSESHOE, LLC		Mailing Address of Property Owner(s) 326 N. WILKIE STREET KAYSVILLE, UT 84037	
Phone (801) 698-1185	Fax		
Email Address (required) PAMCOLLARD@COMCAST.NET		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s) SHAWN CLEGG		Mailing Address of Authorized Person PO BOX 912 EDEN, UT 84310	
Phone (801) 232-4153	Fax		
Email Address SCLEGG@DIGIS.NET		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Property Information

Project Name BLACKSMITH GARAGE	Total Acreage	Current Zoning CV-2
Approximate Address 2143 N. 5500 E. EDEN, UT 84310	Land Serial Number(s) 22-047-0040	

Proposed Use
CLASSIC/VINTAGE CAR DEALERSHIP

Project Narrative

We will be operating a Classic Car Dealership in the South Building (BLDG B) of Blacksmith Village with the address of 2143 N. 5500 E. Eden, UT 84310. Architecture and design have already been completed on this site. There will be an addition of a sign above front the front door advertising the use of the space and the sign will compliment the building and development. Automobile (Antique Only) Sales/Service is already listed as a use for this property per the Zoning and Development Agreement.

Exhibit A- Application

Basis for Issuance of Conditional Use Permit

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.

All cars will be stored and displayed inside the building and may temporarily be displayed outside on occasion during business hours and will be moved back indoors at night. There will be one employee and code requires 5 parking stalls. We are requesting a lower parking requirement of 2 spaces as this is a specialty use and will not require 5 spaces due to the nature of the business.

That the proposed use will comply with the regulations and conditions specified in the Zoning Ordinance and other applicable agency standards for such use.

The proposed use is allowed per the Zoning and Development Agreement and will compliment the development.

Exhibit A- Application

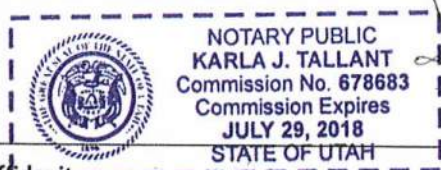
Property Owner Affidavit

I (We), Horseshoe, LLC, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Pamela Callard
(Property Owner)
Manager, Horseshoe, LLC

(Property Owner)

Subscribed and sworn to me this 5 day of December 2014.



[Signature]
(Notary)

Authorized Representative Affidavit

I (We), Horseshoe, LLC, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), Shawn Clegg, 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.

Pamela Callard
(Property Owner)
Manager, Horseshoe, LLC

(Property Owner)

Dated this 5 day of December 2014, personally appeared before me _____, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



[Signature]
(Notary)

Exhibit A- Application



Exhibit A- Application



Exhibit A- Application



Exhibit A- Application

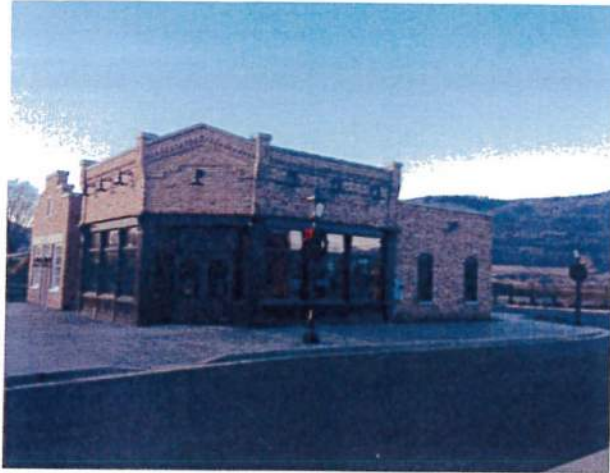


Exhibit B-Zoning Development Agreement



W2644723

C 2013 - 197 (6/25)

SH 2644723 PG 1 OF 14
ERNEST D ROWLEY, WEBER COUNTY RECORDER
10-JUL-13 1052 AM FEE \$4.00 DEF TOT
REC FOR: WEBER COUNTY PLANNING

WEBER COUNTY

ZONING DEVELOPMENT AGREEMENT AMENDED

PARTIES: The parties to this amended Zoning Development Agreement (Agreement) are Horseshoe LLC ("the petitioner") and Weber County Corporation ("the County").

EFFECTIVE DATE: The effective date of this Agreement will be the date that rezoning approval is granted as outlined below by the Weber County Commission ("the Commission").

RECITALS: Whereas, the petitioner has rezoned property generally located at 2145 North and 5500 East within the unincorporated area of Weber County, Utah from Agricultural Valley -3 (AV-3) and Commercial Valley - 1 (CV-1) Zone to Commercial Valley-2 (CV-2) for the general purpose of constructing retail and professional space on property which consists of 1.31 acres and is more particularly described in EXHIBIT A attached hereto and incorporated herein by this reference ("the property"); and,

WHEREAS, the County seeks to promote the health, welfare, safety, convenience and economic prosperity of the inhabitants of the County through the establishment and administration of Zoning Regulations concerning the use and development of land in the unincorporated area of the County as a means of implementing the adopted General Plan of all or part of the County; and

WHEREAS, petitioner has requested that certain property be rezoned for purposes of allowing him or his designees to develop the property in a manner which has been outlined to the Planning Commission; and

WHEREAS, the petitioner considers it to his advantage and benefit for the County to review his petition for rezoning based upon having prior knowledge of the development that is proposed for the property so as to more completely assess its compatibility with the County's General Plan and for the area and the existing land use surrounding the property to be rezoned as described in Exhibit A; and

WHEREAS, the County is desirous of rezoning the property for the purpose of developing the property in the manner outlined to the county but does not feel that the property should be rezoned unless the development that the petitioner contemplates is commenced and completed on the property within an agreed upon reasonable time; and

WHEREAS, it is in the best interests of both the petitioner and the County that in the event the petitioner's project is not commenced, constructed and completed within a reasonable time that the zoning of the parcel described in Exhibit A be rezoned back to the zoning that existed prior to granting petitioners initial rezoning request; and

WHEREAS, the petitioner has acknowledged that, due to the lack of progress on the approved project, he will be in default of the previously approved Zoning Development Agreement; and

WHEREAS, the petitioner has requested that the County extend the expiration date of the previously approved Zoning Development Agreement recorded in the Office of the Weber County Recorder as entry number 2519505; and

WHEREAS, the County Commission, after receiving a recommendation from the Ogden Valley Planning Commission, has determined that proposed development continues to conform to the goals and objectives of the Ogden Valley General Plan and continues to be a benefit to both parties involved;

NOW THEREFORE, for good and valuable consideration in receipt of which is hereby acknowledged and accepted by both parties, the parties hereto mutually agree and covenant as follows:

Exhibit B-Zoning Development Agreement

1. The County will maintain, for an agreed upon amount of time, the zoning of the property described in Exhibit A which was rezoned from Agricultural Valley-3 (AV -3) and Commercial Valley - 1 (CV-1) to Commercial Valley-2 (CV-2) for the purpose of allowing the petitioner to construct his pre-designed project on the subject property.
2. The petitioner will develop the subject property based on the concept development plan attached hereto and marked as Exhibit B. The attached plan may be refined and modified but the general concept of the plan will not be changed without prior formal approval of the County. The petitioner has begun construction on the designated project described in Exhibit B and will complete the project within 10 years of the original rezoning approval date (June 23, 2008).
3. Petitioner acknowledges that, if the project has not been completed within the time frames outlined above, he will request that the property be rezoned from Commercial Valley-2 (CV-2) to Agricultural Valley-3 (AV-3) and Commercial Valley (CV-1) and this document will serve as his request that the property be rezoned by the County. Petitioner understands that the County's granting of his rezoning petition is contingent upon him completing the project substantially as outlined in Exhibit B and within the time frame outlined in this agreement.
4. The petitioner agrees that only uses which comply with the Zoning Ordinance provisions will be approved on the petitioned property as part of a more specific and more detailed Site Plan. No other uses will be approved.
5. The responsibilities and commitments of the petitioner and the County as detailed in this document, when executed, shall constitute a covenant and restriction, running with the land and shall be binding upon the petitioner/owner his assignees and successors in interest, and shall be recorded in the Office of the Weber County Recorder.
6. Both parties recognize the advantageous nature of this Agreement which provides for the accrual of benefits and protection of interests to both parties.
7. The County will review more detailed development plans and approve/ issue Land Use or Conditional Use Permits for only those uses and site design standards that comply with the Zoning Ordinance provisions.
8. The following conditions, occurrences or actions will constitute a default by the petitioner, his assigns or successors in interest:
 - a. failure to present a detailed development plan including proposed uses for the project, or a major phase thereof, gain County approval and obtain Land Use/Conditional Use and Building Permits and complete construction within the time periods specified in this Agreement.
 - b. disposing of the property for any other purpose than that approved by this Agreement, the concept development plan and general uses and any subsequent more detailed plans and uses approved by the County.
 - c. a written petition by the petitioner, his/her assigns or successors in interest, filed with the County seeking to void or materially alter any of the provisions of this Agreement.
9. In the event that any of the conditions constituting default by the petitioner, his/her assigns or successors in interest occur, the County finds that the public benefits to accrue from rezoning as outlined in this Agreement will not be realized.
In such a case, the County shall examine the reasons for the default and lack of progress or proposed major change of plans, and either approve an extension of time or major change to the concept plan or initiate steps to revert the zoning designation to its former zone.


Exhibit B-Zoning Development Agreement

- 10. The parties may amend or modify the provisions of this Agreement and/or the concept development plan only by written instrument and after considering the recommendation of the County Planning Commission which may hold a public hearing to obtain public input on the proposed amendment or modification if deemed warranted.
- 11. This Agreement with any amendments shall be in full force and effect until all construction and building occupancy has taken place as per approved development plans or until the property covered herein has been reverted to its former zone designation as a result of default.
- 12. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.
- 13. In the event that legal action is required in order to enforce the terms of this agreement, the prevailing party shall be entitled to receive from the faulting party any costs and attorney's fees incurred in enforcing this agreement from the defaulting party.
- 14. This agreement constitutes the entire agreement between the parties. No changes or alternatives may be made in this agreement except in writing signed by both parties.

Documents Attached:

- Exhibit A (Commercial Valley – 2 Zoning Description)
- Exhibit B (Concept Development Plan)
- Exhibit C (Conditions, Limitations, and Uses)

Approved by the parties herein undersigned this 2nd day of July, 2013.


Delamy Stephens AGENT
 Developer

INDIVIDUAL ACKNOWLEDGMENT

State of Utah)
 ss
 County of Weber)

On the _____ day of _____ A.D. 2013

personally appeared before me _____

the signer(s) of the within instrument, who duly acknowledged to me that he/she executed the same.

Notary Public

Residing at: _____, Utah

Exhibit B-Zoning Development Agreement

CORPORATE ACKNOWLEDGMENT

State of Utah)
ss
County of Weber)

On the 2ND day of July A.D. 2013

personally appeared before me Delaney Stephens duly sworn, did say that he/she is the AGENT of Horseshoe LLC the corporation which executed the foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of a Resolution of its Board of Directors that the said corporation executed the same.

Kary C. Serrano
Notary Public
Residing at: Ogden



APPROVED AS TO FORM:

[Signature]
Weber County Attorney

7/3/13
Date

APPROVED:

[Signature]
Chairperson, Weber County Commission

7/9/2013
Date

ATTEST:

[Signature]
Weber County Clerk/Auditor

Exhibit A

Parcel #: 22-047-0040

Blacksmith Shop Commercial Zoning Description:

BEGINNING AT A POINT 13.05 CHAINS SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN, AND RUNNING THENCE SOUTH 0.09 CHAINS; THENCE SOUTH 88D30' EAST 0.83 CHAINS; THENCE SOUTH 1D30' WEST 171.00 FEET; THENCE NORTH 88D30' WEST 5 CHAINS; THENCE NORTH 1D30' EAST 176.94 FEET; THENCE SOUTH 88D30' EAST 4.17 CHAINS TO, MORE OR LESS, THE POINT OF BEGINNING.

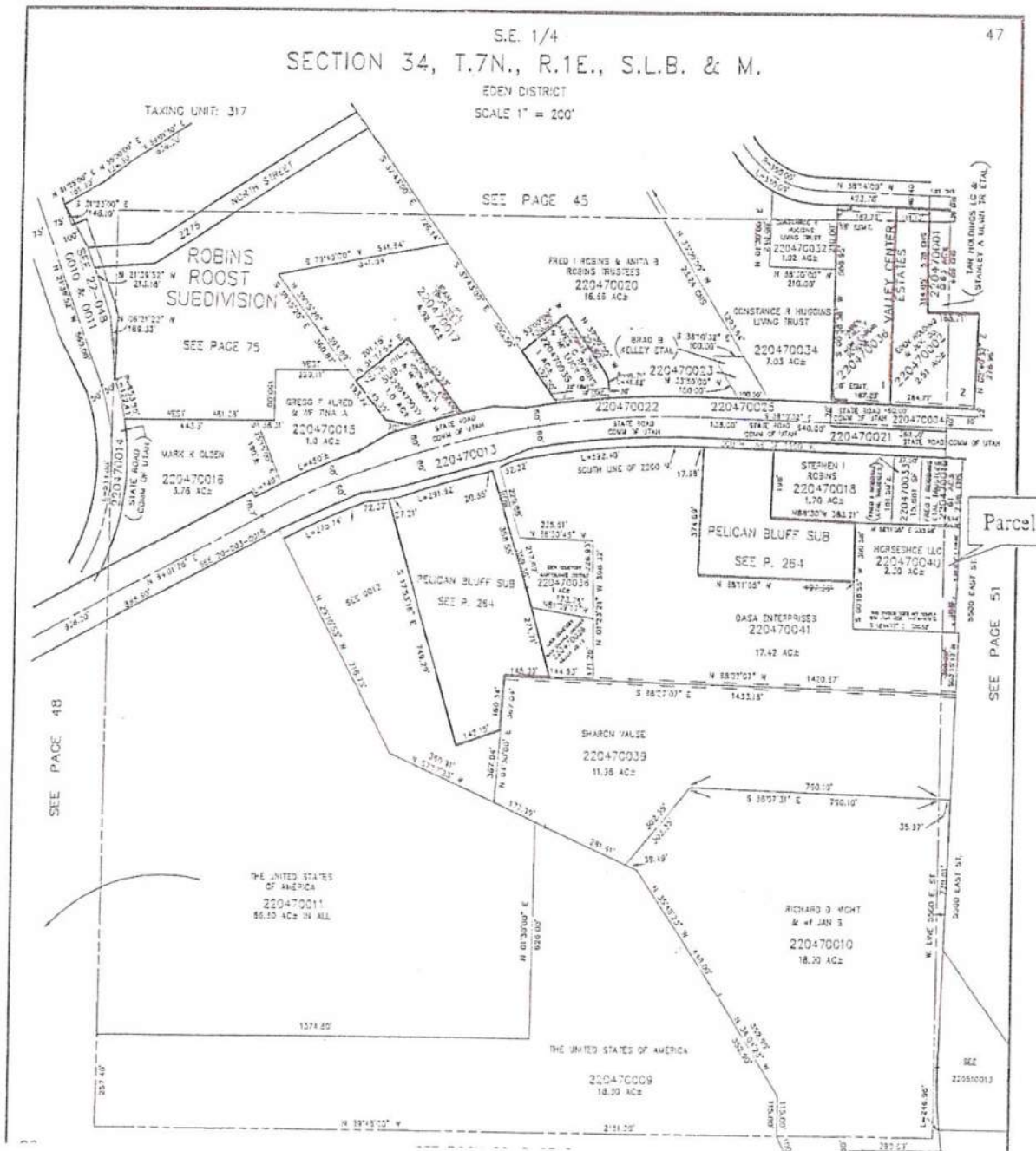
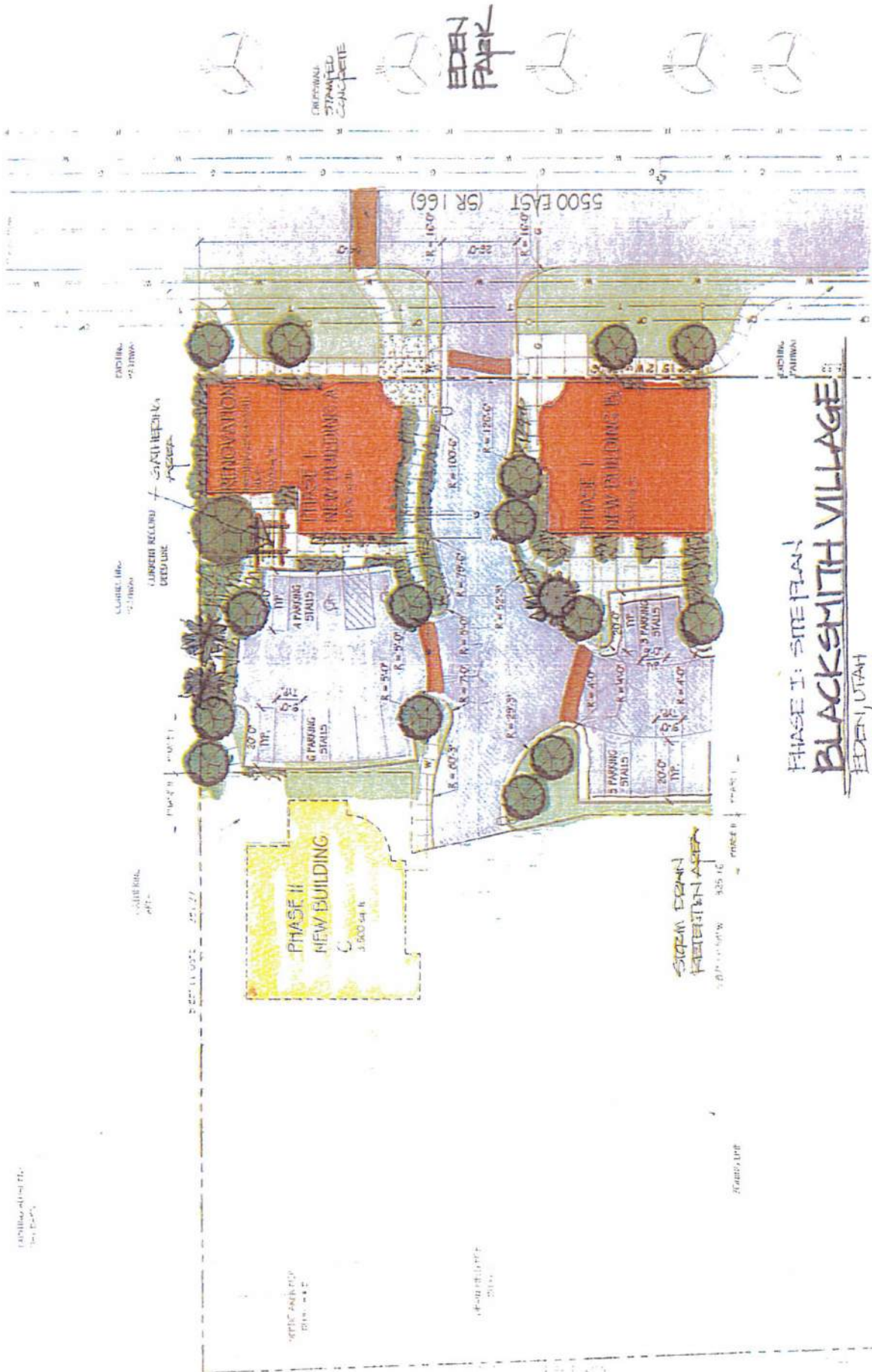


Exhibit B

(See Attached Concept Development Plans)

B 2/3



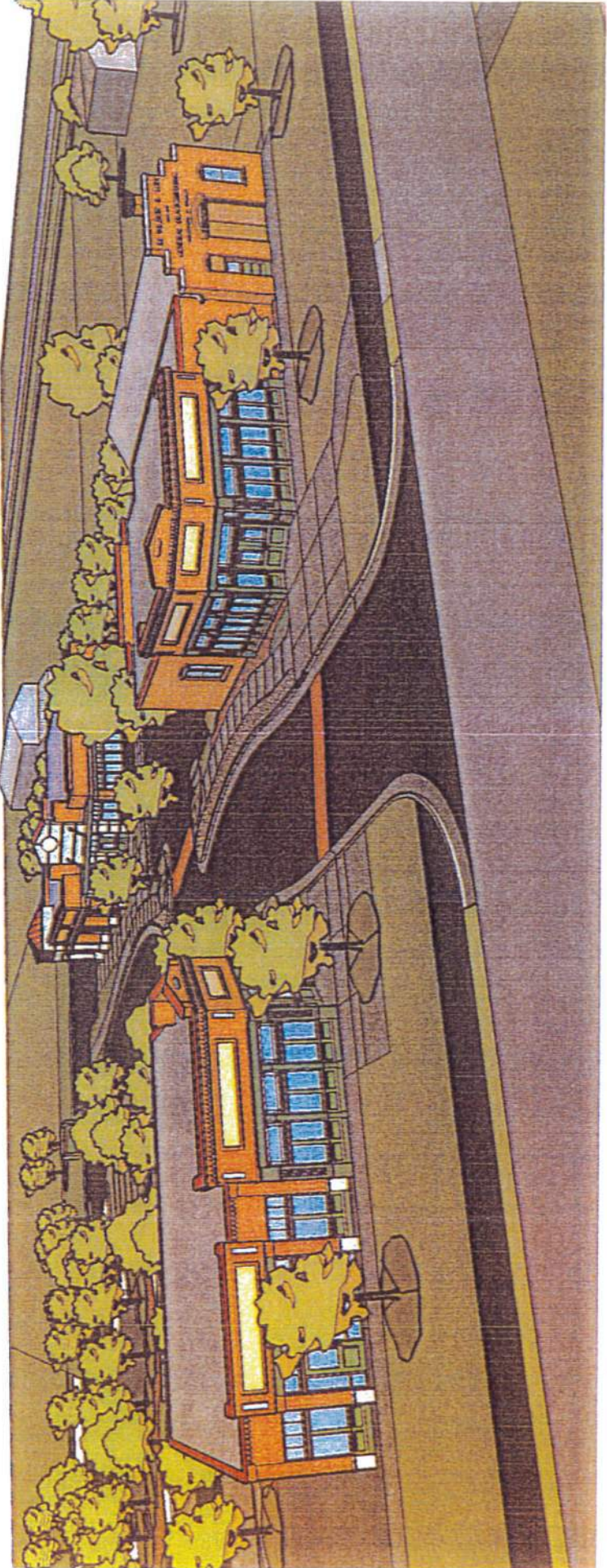
EXISTING STAMPED CONTRACT

10/11/2014

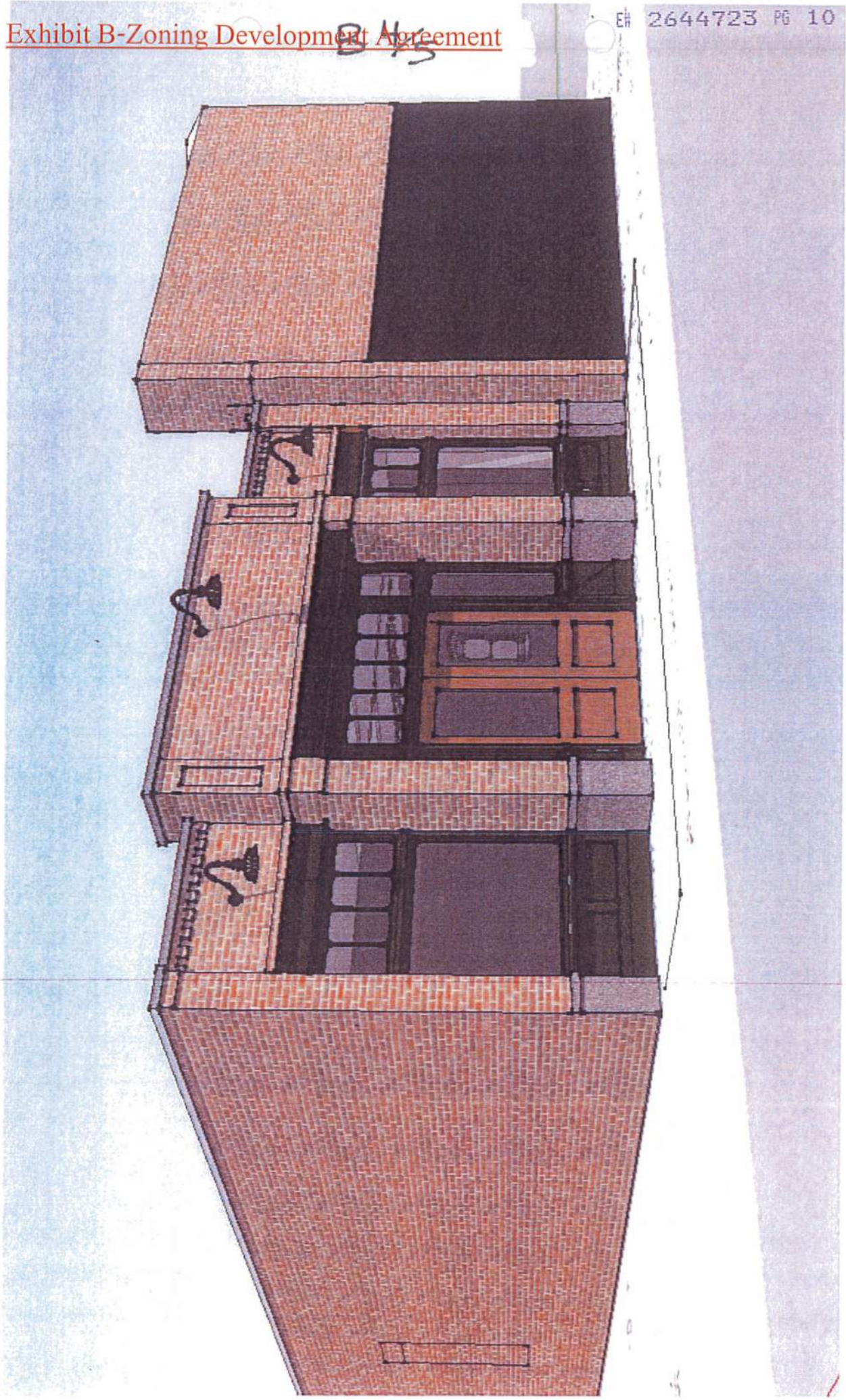
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10/11/2014



B 4/5



B 5/5

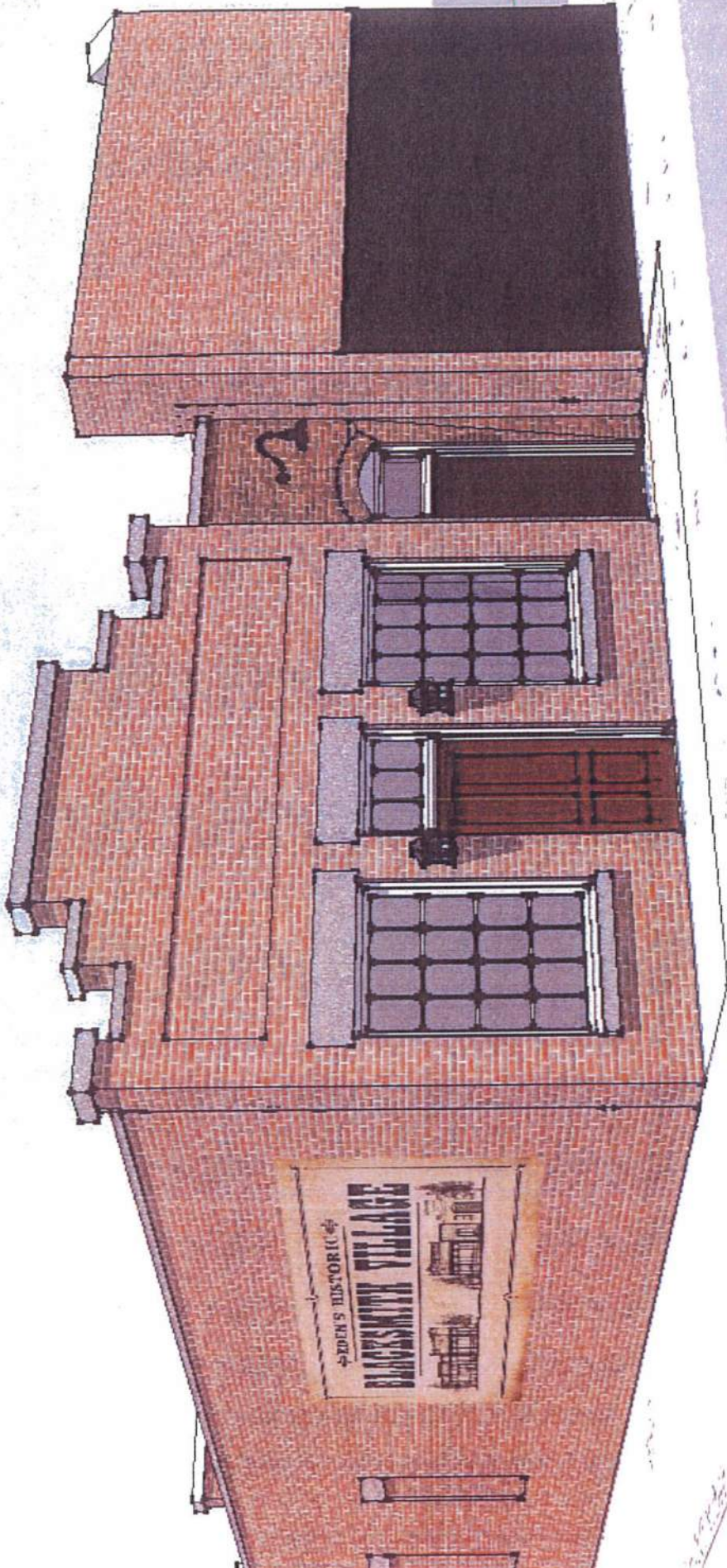


Exhibit C

Conditions, Limitations and Uses

Conditions:

- 1) The Blacksmith Shop will be placed and maintained on the National Register of Historic Places once the restoration of the Blacksmith Shop is complete.
- 2) The project will develop according to the approved site plan.
- 3) The Blacksmith Shop's interior and exterior will be restored according to the National Register Standards.
- 4) The Blacksmith Shop will be structurally protected simultaneously with any initial improvements to the property.
- 5) The Blacksmith Shop will be completely restored within five (5) years of the rezone approval. Progress for the restoration of the Blacksmith Shop shall be reported with each Commercial Site Plan or Conditional Use Permit application.
- 6) The Blacksmith Shop will retain a blacksmith shop theme or motif.
- 7) The Blacksmith Shop, once restored, will offer an educational element such as a walking tour, brochure or signage explaining its history and historical importance.
- 8) All new commercial buildings will project similar architectural styles and use similar materials to that of the Blacksmith Shop and the existing residence on site.
- 9) The property owner or developer will provide for the cost of additional traffic safety signs and cross-walk, as necessary for the Blacksmith Village development, if deemed appropriate by the County Engineer and/or County Commission.
- 10) The northeast corner of Blacksmith Village Concept Plan is update to show landscaping.
- 11) Year round landscape or other permanent screening will be used along all project boundaries that are adjacent to parcels with existing homes.
- 12) The developer acknowledges that prior to rezoning, a majority of the Blacksmith Village and all of adjacent properties are zoned Agricultural Valley - 3 (AV-3) which lists "agriculture" as the preferred use in agricultural zones. The developer also acknowledges that agricultural operations, as specified in the Zoning Ordinance for a particular zone, are permitted at any time including the operation of farm machinery and no allowed agricultural use shall be subject to restriction on the basis that it interferes with activities of the future Blacksmith Village commercial development.

Limitations:

- 1) All new structures are limited to one or single story.
- 2) All structures are limited to the square footage footprint as indicated on the approved site plan.
- 3) No drive-thru services allowed.
- 4) Any Bed & Breakfast Inn or Bed & Breakfast Hotel is limited to 4 guest rooms.

Uses:

Antique/ souvenir shop (P)	Laboratory (medical or dental) (P)
Art/artist supply store (P)	Leather goods, sales and service (P)
Automobile (Antique Only) Sales/Service* (C)	Legal offices (P)
	Library (P)
Bakery limited to goods prepared on site (P)	Linen store (P)
Bank or financial institution (P)	Locksmith (P)
Barber/Beauty shop (P)	Luggage store (P)
Bath and massage establishment (P)	
Bed and Breakfast Inn/Hotel (C)	Meat, fish and seafood store (P)
Bicycle sales and service (P)	Medical/dental office (P)
Book Store (P)	Museum (P)
Bookbinding (C)	Music store (P)
Blacksmith shop (P)	
	Needlework, embroidery or knitting store
(P)	
Café (P)	Novelty store (P)
Camera Store (P)	
Carpet or Rug Service (P)	Optometrist, optician or oculist (P)
China, crystal and silver shop (P)	
Christmas tree sales (P)	Paint or wallpaper shop (P)
Clothing and accessory store (P)	Pet and pet supply store (P)
Convenience store (no gas service) (P)	Pie manufacturer (P)
	Pharmacy (P)
Day care center (P)	Photo studio and supplies (P)
Dairy product store(cheese shop) (P)	Popcorn or nut shop (P)
Delicatessen (P)	Professional office (P)
Drapery/curtain store (P)	Plumbing shop (P)
Dry cleaning pick-up station (P)	
	Real estate agency (P)
Electronic equipment sales/service (P)	Recreation center (C)
Employment agency (P)	Restaurant (P)
Fabric/textile shop (P)	Seed and feed store, retail (P)
Florist shop (P)	Sewing machine sales/service (P)
Fruit store or stand (P)	Shoe repair or shoe shine shop (P)
Furniture sales/repair (P)	Tailor shop (P)
	Taxidermist (P)
Garden supplies and plant materials (P)	Toy store, retail (P)
Gift store (P)	Travel agency (P)
Green house/nursery (P)	
Gunsmith (P)	Upholstery shop (P)

Health food store (P) Vegetable store or stand (P)
Health club (P)
Hobby and craft store (P)
Hardware store (P) w/no outside storage

Ice cream parlor (P)
Insurance agency (P)
Interior decorator/design (P)

Jewelry store sales and service (P)

* In additional other Planning Commission conditions imposed at the time of Conditional Use Permit approval, the following restrictions shall apply as follows:

1. At close of business, all cars will be stored within showroom.
2. No more that fifteen (15) antique automobiles on display at any given time.
3. Blacksmith facilities used for the restoration of classic automobiles are limited to no more than two (2) bays with all work being conducted shall be within a completely enclosed building.
4. Automobiles are limited to antique and classics defined as follows:
 - a. At least twenty-five (25) years old and no longer depreciating in value.
 - b. Are suitable and desirable for collecting.
 - c. They have special value or appeal because of their uniqueness and/or beauty.
 - d. As a guide, these automobiles should be of a similar vintage to those frequenting the original service station and/or Blacksmith Shop.

Exhibit C-Approved Site Plan

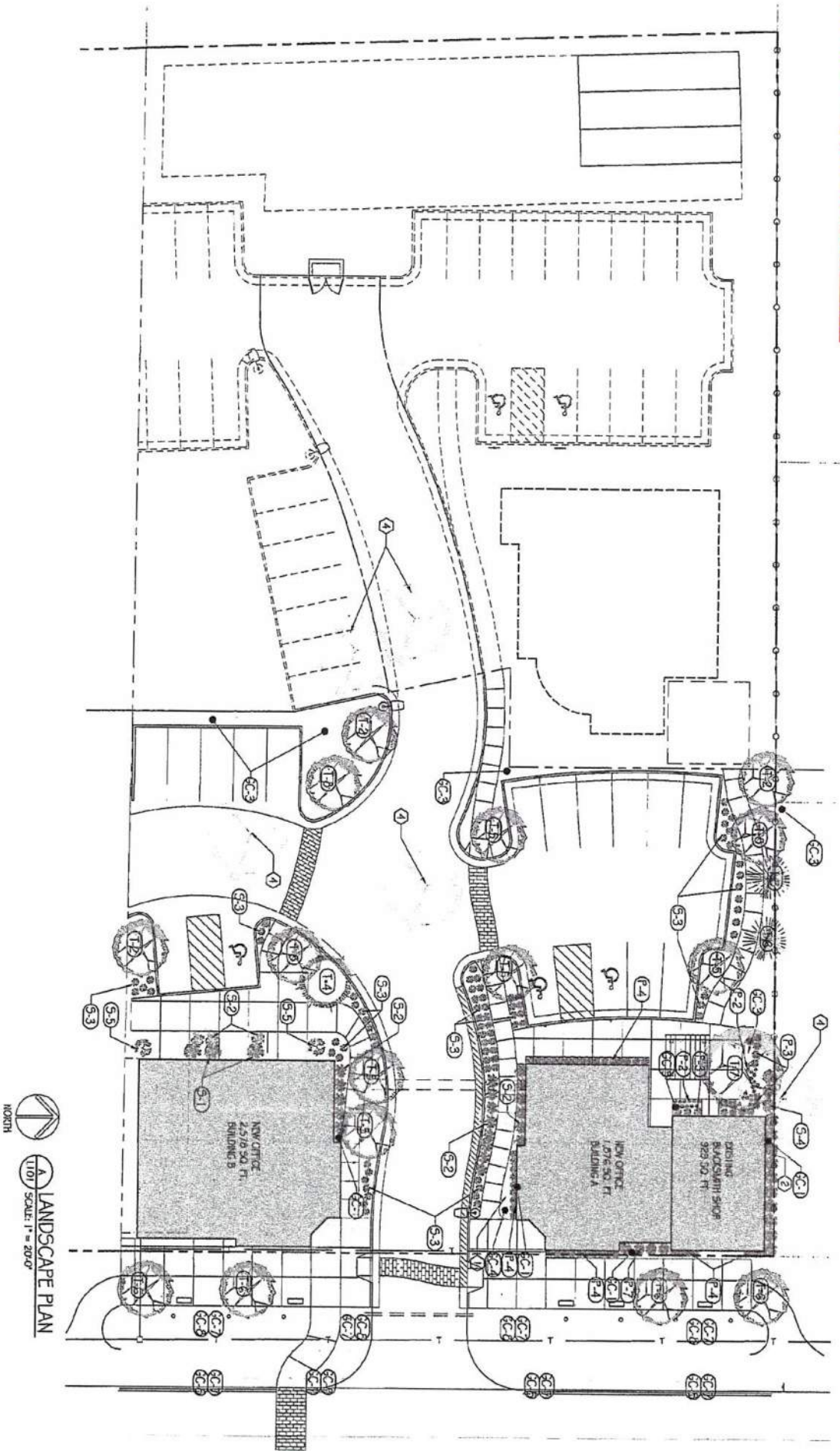


Exhibit D- Proposed Signage





Weber County Planning Division

To: Ogden Valley Planning Commission
From: Ronda Kippen
Date: December 30, 2014
Subject: File# CUP 2014-29 Pine Canyon Lodge CUP

Summary:

The request for approval of a conditional use permit for a condominium project consisting of 54 condominium units and 54 lockout units with an average building height of 54 feet was presented during the December 2, 2014 Ogden Valley Planning Commission meeting. After receiving public comment on the item, and followed by discussion from the Planning Commission, the request was tabled until the January 6, 2015 Ogden Valley Planning Commission meeting for further research and clarification needed and the following direction given to the applicant (see Exhibit A for the draft motion of the 12/2/14 meeting):

1. Lighting and what steps can or will be taken to ensure the "Dark Sky International Recognition" for North Fork Park will not be jeopardized.
2. Does Weber County currently have adequate fire equipment to handle a 71 foot structure fire without needing to purchase new equipment?
3. What is the legal interpretation of a lockout as a separate dwelling?
4. What is the impact as far as noise and dust of a development of this caliber in a residential area?

Follow-up:

I have been diligently working with the County Attorney's office, the Weber Fire District and the applicant regarding the direction received from the Planning Commission during and following the last meeting. The applicant has requested that the Planning Commission table the agenda item until the January 27th meeting to allow the applicant to redesign the building in an attempt to address the concerns that were expressed during the December 2nd meeting. I received a portion of the new design earlier today; however, based on a new/modified design, adequate time needs to be allotted for a thorough review prior to presenting it to the Planning Commission.

I have attached to this memo the responses to the Planning Commission's questions and concerns pertaining to the legal interpretation for a lockout as a separate dwelling as Exhibit B and fire suppression as Exhibit C.

Necessary Corrections:

I would like to address two items that were not part of the Planning Commission's request to the applicant but are necessary to ensure the correct information is being evaluated.

Additional Height Request: In the initial notice and staff report prepared for the December 2, 2014, it was stated that the applicant was requesting, as part of the conditional use permit, that the Planning Commission vary the maximum height requirement of 25 feet per the CVR-1 Zone and consider an average height of 54 feet as conditionally allowed in the Uniform Land Use Code of Weber County, Utah (LUC) §104-11-4 and defined by the LUC §101-1-7. According to the LUC §104-11-4, a conditional use permit is required if the building height is over 25 feet. There is not a "maximum" height identified in the LUC for the CVR-1 zone and height in excess of 25 feet is conditionally allowed in that zone.

Zoning: It appears that there has been an error in the digitizing of the zoning maps when compared to the ordinances that have enacted the applicable zones specifically pertaining to the Nordic Valley Resort area. After the December 2nd meeting, it was evident that additional research of what has historically been approved at the resort was necessary. An old zoning map was found that lead to a couple of rezoning ordinances. In 1977, the property owner of Nordic Valley petitioned the County to rezone approximately 12 acres located at the base of the resort from the FR-1 zone to the CR-1 zone which would bring the zoning current with the uses that had been established prior to the adoption of zoning in the Ogden Valley. Weber



Weber County Planning Division

County granted a rezone but only for a 400' x 400' area located where the "lodge" currently sits. In 1980, the property owner again petitioned the County for a rezone of the base area of the resort from the FR-1 zone to the CR-1 zone. The County once again granted a rezone but only for an additional area of 470' x 400' tying the rezone to the northern line of the Silver Bell Subdivision and the southern line of the previously adopted rezone. Based on Ordinance 17-77 and Ordinance 18-80, parcel # 22-023-0086 containing 12.29 acres is split between the CVR-1 zone (containing 7.98 acres) and the FV-3 zone (containing 4.31 acres) as identified in Exhibit D.

The process in reviewing parcels that are split by zone boundaries has been identified in LUC §104-1-4 which states:

"Where a parcels that is split by a zone boundary, the parcel must contain at least two-thirds of the area required for a lot in the more restrictive zone, the area from the less restrictive zone can be used to meet the total area requirement for the more restrictive zone."

Based on the correct zoning lines, the proposed site plan needed to be modified to ensure that the footprint of the building would be fully contained in the CVR-1 zone. The revised plans must show the building located in the CVR-1 zone, reflect adequate setbacks along the existing side property line and the future front property line as well as identify the fire access lane along the south property line that has been approved by the Weber Fire District. During the subdivision process, a minimum of two-thirds of the area requirement must be located in the CVR-1 zone.

Public Notice:

To ensure adequate time has been allotted to the affected property owners, a second series of notices have been mailed out to all property owners within 500 feet of the subject property on December 5, 2014 for the January 6, 2015 Ogden Valley Planning Commission meeting.

Public Comment:

All comments that have been submitted in writing to the Planning Division to date have been attached as Exhibit E. Additional comments will be compiled and provided to the Planning Commission prior to the public meeting on January 6, 2015.

Exhibits:

- A. 12/2/14 Planning Commission Motion (Draft)
- B. Legal Opinion
- C. Fire Approval
- D. Plat map with correct zoning
- E. Public Comment

Respectfully,

Ronda Kippen

Planner II

Weber County Planning Division

Phone: 801.399.8768

Email: rkippen@co.weber.ut.us

Exhibit A- 12.2.14 Draft PC Motion

Minutes of the Ogden Valley Planning Commission Regular meeting held on December 02, 2014, in the Weber County Library, Ogden Valley Branch, Huntsville, UT commencing at 5:00 p.m.

Present: Pen Hollist, Chair; Greg Graves, Will Haymond, Laura Warburton, Kevin Parson, Ann Miller

Absent/Excused: John Howell

Staff Present: Sean Wilkinson, Planning Director; Scott Mendoza, Principle Planner, Charlie Ewert, Principle Planner; Ronda Kippen, Planner; Dustin Parmley, Legal Counsel; Kary Serrano, Secretary

Pledge of Allegiance

Roll Call:

2. Petitions, Applications and Public Hearings

2.1. Administrative Items

a. New Business:

1. CUP 2014-29: Consideration and action on a Conditional Use Permit (CUP) application for a condominium project including lockout rooms and allowance to exceed the required 25 feet in building height located at 3567 Nordic Valley Way in Eden, in the Commercial Valley Resort-1 (CVR-1) Zone (Skyline Mountain Base, LLC, Applicant)

MOTION: Commissioner Warburton moved that they table CUP 2014-29 until the next scheduled work meeting and there are things that she couldn't decide and there are many questions that need to be answered. Such as how many units are allowed on this property. Could they do a DRR-1 Zone, and would that be better. She believes that there needs to be more discussion; it's not based on public clamor, and this is a very critical decision that requires more discussion. Commissioner Miller seconded.

DISCUSSION: Commissioner Graves said that having some kind of a master plan would help in dealing with this and he was not sure that would be something they could ask for. Director Wilkinson replied that they can ask, but that is something that as staff they cannot require. It's been brought up several times the context of what we're planning, but the zoning is in place, there is not a Zoning Development Agreement associated with that zoning. They cannot impose something outside of what is allowed by that zone. Their hands are essentially tied; the zoning was in place years ago. Dustin Parmley added the fact that they elected the mechanism of a conditional use permit, that's their choice entirely and that's allowed by law. We are required to follow the legal standard for a conditional use permit because that's the mechanism they have elected to pursue to move forward for this development project. Commissioner Miller asked what they would need in place in order to require a master plan; will that mean that they would have to go through the process of becoming a designated resort. Director Wilkinson replied if they wanted to do that. The problem is the applicant does not currently have enough property. If they were to rezone and they were to ask for something outside of what the zoning allows, that's when that opportunity would open up. Dustin Parmley said that even if they had enough property, it would be at their election, and it would not be something that this body could require of them.

Commissioner Miller asked that if they were to grant this, these buildings could be as tall as 10 stories high. Could they go back in and change the ordinance at a later time? Director Wilkinson replied that would not affect this project but they certainly could do that and that would be a discussion they could have at a work session. Ultimately the County Commission will make a decision if the Planning Commission recommends something to them.

Chair Hollist said that this is a legislative matter and it is appropriately suggested, and the motion to table, allows them to consider that, not for this applicant, but for future applicants.

Commissioner Graves asked for clarification on the reason for tabling. Do they have any instructions for the applicant to provide more information for us to consider that they don't have in order to table? Director Wilkinson said specific conditions are generally applicable with a motion to table. Commissioner Graves said that he was not opposed to tabling, but they need to provide specific direction to the applicant to provide more information. Commissioner Warburton said that what she is not hearing from the applicant what is going on with the rest of the property without asking for a master plan. She has not heard from staff on how that works and if there are many options that they can look at. She would like this commission to have a work session to look at some of the options, such as do they want a bigger footprint on the land to be able to lower that. They have a law that they have to follow, and there are things here that cannot be addressed and are outside their ability to rule on.

Exhibit A- 12.2.14 Draft PC Motion

Commissioner Miller said since they can't have a master plan, could they have some kind of vision that the applicant sees as the next steps, with some sense of where they are going, and how many units they can build? Ronda Kippen replied that the only piece property owned by Skyline Mountain Base, that is zoned CVR-1, is the 12.29 acres that is at the base. They will utilize the same footprint for this building to identify how much acreage we need. Across the street next to the barn is the CVR-1 Zone that goes from the southernmost property line that's adjacent to Nordic Valley Water and it's the Stokes' property north past the barn. In the packet on Map 2, the subject property is the rectangle along Nordic Valley Way; that is the only parcel that is zoned CVR-1 for this type of commercial development. Commissioner Warburton said that the applicant has the right to build, and we can't deny the use but there are a lot of questions. Commissioner Miller said that she would like to have a conversation, that if they approve this, how do they change the ordinance so that is something they can live with in the future. Director Wilkinson indicated that the discussion needs to be focused on the application, but if there are specific things for the applicant to do before the next Planning Commission meeting, please state those, so when they have the next meeting, there is something that can be presented to satisfy the concerns that the Planning Commission has. Dustin Parmley said part of the concern with getting into the other topics, was not properly noticed and on the agenda for discussions amending the land use code, and they are straining in areas that they shouldn't without given proper notice.

MOTION: Commissioner Warburton called for the question, which ends debate. Commissioner Miller seconded.

VOTE: A vote was taken and Chair Hollist said that the motion did not pass by two thirds of the majority.

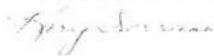
MOTION: Chair Hollist that he would like to have the applicant comment at the next meeting. This is a game changer for the light, the size of the lantern that would be pushed into the sky that close in proximity to North Fork Park, which may in fact jeopardize the Dark Sky International Recognition. Secondly, he would like to know whether Weber County has the fire equipment presently on hand that can handle a 71 foot structure without the purchase of additional equipment. Thirdly, he would like to know the legal interpretation of a lockout, not the opinion; the legal interpretation of a lockout as a separate dwelling. Finally, he would like to know the impact as far as noise and dust of a development of this caliber in a residential area.

DISCUSSION: Director Wilkinson said that this will not be a work session item; this will be back on the agenda for action. The next meeting we have will be a work session. Commissioner Warburton said that as far as lighting goes, it is already an ordinance, which they have already met that requirement. Dustin Parmley said that light can be considered as far as the minimum standard for a permitted use. It is something that you can take into consideration and impose reasonable conditions to mitigate detrimental effects. Director Wilkinson said that where this is an application for a conditional use permit, we have to respond according to what the code says and it will be in a meeting where you will make that decision. Commissioner Warburton suggested that the people contact Ronda and send in their fact-based comments and contact their neighbors as this has already been noticed. Director Wilkinson clarified that the first meeting will be January 6, 2015.

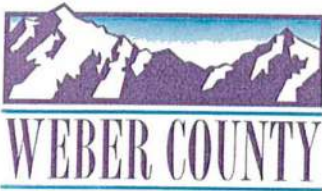
VOTE: A vote was taken with all members voting aye. Motion Carried (5-0).

3. **Adjourn:** The meeting was adjourned at 9:00 p.m.

Respectfully Submitted,



Kary Serrano, Secretary,
Weber County Planning Division



ATTORNEY'S OFFICE

2380 Washington Boulevard
Suite 230
Ogden, Utah 84401-1464
Telephone: (801) 399-8377
24 Hour FAX: (801) 399-8304

December 12, 2014

Ogden Valley Planning Commission
% Sean Wilkinson
2380 Washington Blvd., #240
Ogden, UT 84401

RE: CUP 2014-29, Nordic Valley Condominium Project

Dear Sirs and Madams:

On December 2, 2014, the Ogden Valley Planning Commission considered CUP 2014-29, a conditional use permit application for a condominium project including lockout rooms and allowance to exceed 25 feet in building height located at 3567 Nordic Valley Way in Eden, in the Commercial Valley Resort-1 (CVR-1) Zone submitted by Skyline Mountain Base, LLC ("applicant"). The applicant proposed a condominium rental apartment building with 54 condominium rental units, with each unit containing a lockout room for a total of 54 lockout rooms. The Commission tabled the application for further investigation. When tabling the consideration of the application, the Commission, among other conditions, instructed the Attorney's Office to provide a legal opinion on the definition of a lockout room and how such a room is counted for purposes of density.

Weber County Land Use Code Section 101-1-7 defines lockout sleeping room as follows:

The term 'lockout sleeping room' means a sleeping room in a condominium dwelling unit or condominium rental apartment with separate or common access and toilet facilities but no cooking facilities except a hotplate, which may be rented independently of the main unit for nightly rental by locking interior access. A lockout sleeping room shall not be sold independently of the main dwelling unit, and is not considered a dwelling unit when figuring density on a parcel of land.

The lockout rooms within the condominium rental apartment project are not separate units. They are separately rentable sleeping rooms, but would not be calculated as part of density in most zones that permit condominiums.

- Dee W. Smith
Weber County Attorney
- ▼
- Chief Criminal Deputy
Gary R. Heward
- ▼
- Chief Civil Deputy
David C. Wilson
- ▼
- Attorneys
 - L. Dean Saunders
 - Monette Hurtado
 - Sandra L. Corp
 - Christopher F. Alfred
 - Reed M. Richards
 - Branden B. Miles
 - Teral L. Tree
 - Christopher L. Shaw
 - Benjamin B. Willoughby
 - David L. Gladwell
 - Letitia J. Toombs
 - Gage H. Arnold
 - Jeffrey G. Thomson Jr.
 - Brody E. Flint
- ▼
- Administration
Kimberley A. Lee
- ▼
- Investigations
Robert D. Carpenter
Shane L. Minor
- ▼
- Victim Assistance
Jamie Pitt
Diane Oberg-Lowe
Becky Jones

Exhibit B- Legal Opinion for Lockout

However, the CVR-1 Zone's more specific regulations do account for lockout sleeping rooms, though they are not counted in the same way that condominium units are counted. A site for a condominium rental apartment building must meet the following requirements from LUC 104-11-6(a): "7,500 square feet of net developable area plus 2,000 square feet of net developable area for each dwelling unit [condominium unit] in excess of two dwelling units [plus, for each] Lockout sleeping room, 500 square feet." Under this calculation, each lockout sleeping room is counted the same as approximately 1/4 condominium unit.

The following examples may serve to illustrate the point:

The current proposal of 54 units with each unit containing a lockout room requires the following site area within the CVR-1 Zone:

	7,500 square feet (baseline)
+	104,000 square feet (2,000 square feet for each condo unit in excess of two, or 52 units)
+	<u>27,000 square feet (500 square feet for each of the 54 lockout sleeping rooms)</u>
	138,500 square feet total site needed or 3.18 acres (43,560 square feet per acre)


This same site size could support 67 separate condominium units without lockout sleeping rooms as follows:

	7,500 square feet (baseline)
+	<u>130,000 square feet (2,000 square feet for each condo unit in excess of two, or 65 units)</u>
	137,500 square feet total site needed or 3.16 acres (43,560 square feet per acre)

This is a difference of 13 additional units, or approximately 1/4 of the total project.

The applicant has proposed a smaller number of units overall, with each unit containing an additional lockout room, rather than proposing the largest number of entirely separate units a 3.2 acre site in the CVR-1 Zone could support. The application meets the statutory size requirements for a condominium rental apartment building with lockout rooms in the CVR-1 Zone.

Sincerely,



Dustin M. Parmley
Deputy County Attorney

Exhibit C- Fire Approval

Kippen,Ronda

From: brandontogden@gmail.com on behalf of Brandon Thueson [bthueson@weberfd.com]
Sent: Monday, December 15, 2014 11:15 AM
To: Kippen,Ronda
Subject: Re: City Planning review comments

Rhonda,

As part of my plan review process, I consider fire fighting strategy and tactics along with our equipment we have available to fight fires. While the proposed project at Nordic Valley does include a large and tall building, it is similar in nature to other buildings in the upper valley such as the ones in the Wolf Creek area. The agreed upon enhancements such as the full NFPA 13 fire suppression system, fire command room and wet standpipes in the stairwells will greatly aid the Weber Fire District should a fire occur.

Brandon Thueson
Fire Marshal
Weber Fire District
801-782-3580 Office
801-917-0678 Cell

FOLLOW WEBER FIRE DISTRICT ON TWITTER @WeberFireDist

On Mon, Dec 15, 2014 at 9:23 AM, Brandon Thueson <bthueson@weberfd.com> wrote:
Rhonda,

Will my plan review comments suffice for what the planning commission needs, or do I need to write a letter also?

Please let me know when the meeting is and I will try to attend to answer questions.

Brandon Thueson
Fire Marshal
Weber Fire District
801-782-3580 Office
801-917-0678 Cell

Exhibit C- Fire Approval

4. Fire Flow: Fire flow for the proposed building is 3125 GPM for 2 hours (this is allowing for a 50% reduction in required fire flow as the building will be equipped throughout with an NFPA 13 system as allowed by section B105 of the IFC).
5. Standpipe System: A standpipe system is required in the building per section 905.3.1 of the International Fire Code. Standpipe may be connected to and be a part of the fire suppression system (again easier to do with a NFPA 13 system).
6. Fire Alarm System: A full automatic fire alarm system is required as outlined by section 907.2.9.
7. Gas meters shall be protected from vehicular damage. If the gas meter is in a traffic area, bollards shall be provided as per the International Fire Code.
8. Fire suppression systems for kitchen hoods shall have the plans approved by the fire department before installation and a test of the system shall be preformed for the fire department for approval.

NOTE: This review is for the Conditional Use Permit. Additional reviews and requirements may be necessary.

Every effort has been made to provide a complete and thorough review of these plans. This review DOES NOT relieve the owner, contractor and/or developer from compliance with any and all applicable codes, and standards.

Any change or revision of this plan will render this review void and will require submittal of the new, or revised, layout for fire department review. If you have any questions, please contact me at 801-782-3580.

Exhibit E- Public Comment

Public comment submitted to the Planning Division Staff as of December 30, 2014

Exhibit E- Public Comment

Kippen,Ronda

From: Kimbal Wheatley [kimbalwheatley@gmail.com]
Sent: Tuesday, December 23, 2014 2:13 PM
To: Alan Wheelwright; Alexis Owen; Brian and Elaine Hockridge; Cheryl Ferrin; Chip Ulrich; Chris Stevenson; Cindy Beger; Clark Duellman; Cliff Peterson; Cord Pack; Dave Mills; Doug Gregory; Ellen Fowers; Elsa Svensson; Eric Householder; Ernest Goff; Evan Byers; Ewert, Charles; Frank Cumberland; Fred Mullin; Gary Fullmer; Greg Mauro; Hatfield, Ben; Helene Liebman; Jack Wright; Jan Fullmer; Janet Muir; Jeff Burton; Jeff Stokes; Graham, Jennifer Ann.; Jim Ormsbee; Jim Truett; Joan Blanchard; Jodi Smith; John Klisch; John Loomis; Jon Bingham; Julie Tissue; Kathy Allen; Kimbal Wheatley; Kirk Langford; Larry and Sharon Zini; Laura Warburton; Lee Schussman; Lon Child; Lowell Peterson; Megan Boswell; Mike Loud; Miranda Menzies; Neil Grotegut; Nick Breeze; Pam Kramer; Pam Mitchell; Paul DeLong; Paul Riley; Peggy Turner; Pen Hollist; Phil Ordway; Richard L Sorensen; Richard Menzies; Richard Webb; Rick Vallejos; Rod Peterson; Ron Gault; Ron Gleason; Roody Rasmussen; Ross Mertlich; Ross Walker; Sandra Tuck; Scott Blank; Wilkinson, Sean; Shanna Francis; Sharon Holmstrom; Steve Clarke; Steve Ransom; Susan LePage; Terry Davis; Thayer Walker; Vickie McKenney; Vicky Harris; Zack Tanner
Cc: Kippen,Ronda
Subject: A legal framework for dealing with Conditional Use Permits
Attachments: GEM whitepaper to OVPC 12-23-14.docx

Colleagues,

At our last GEM meeting several of us decided the conditional use application for a 71 foot tall, 190,000 square foot condo project at the base of Nordic Valley was a direct assault on our General Plan for Ogden Valley and the land use code we have created to carry it out.

The OVPC expressed dismay in their December 2 meeting that their hands were tied; that unless we could muster legally valid reasons to deny, the CUP would be approved.

For that reason, we wrote the attached legal framework for considering CUP applications. Today it was sent to the planning staff and it will be included in the OVPC packet for their January 6 meeting.

The paper builds the case that our OVPC is indeed empowered to make reasonable decisions about CUP applications. Read the case and let your opinion be known by sending an email to Ronda Kippen at the Planning Office rkippen@co.weber.ut.us (before new years).

One way or another, by the end of the January 6 OVPC meeting we will know what county legal counsel and OVPC think about the authority and obligation they have when dealing with conditional use applications.

Kim

--
Kimbal Wheatley
(801) 725-7583
kimbalwheatley@gmail.com is preferred communication method


 Please consider the environment before printing anything

Exhibit E- Public Comment

December 23, 2015

Dear Commissioners,

As you may know, the GEM committee consists of Valley residents who believe we should **grow with excellence** (Growth Excellence Mandate) and further believe in working through and improving the county planning process to that end.

Our last GEM meeting occurred the night after the December 2 OVPC meeting in which CUP2014-29 was on the agenda. We had a packed house and we spent our entire discussion on the action at the OVPC meeting the night before.

The consensus was that OVPC did the right thing to table CUP2014-29 and we commend you. We especially felt tabling was appropriate because so little notice was given to those who would be affected by the CUP; there was little time to prepare as neighborhood residents learned about the OVPC agenda over the Thanksgiving weekend. We thank you for providing time to study the CUP petition and we ask that *all* Conditional Use applications and meetings be noticed at least a month before the public OVPC meeting, including access to all pertinent documents through Mirada.

Toward the end of our GEM meeting, we decided to accept the challenge OVPC put out there to find a legal framework through which we could mitigate the harmful effects of a free-for-all for every conditional use in our Land Use Code. We wrote as useful a paper as we could about how OVPC could rule, in a legally defensible way, to deny a CUP when the proposal is inconsistent with our overall Land Use Code and General Plan. Its purpose is to serve as a reference document for discussions about CUP applications and we have distributed the paper to the people who live around Nordic Valley resort, asking them to voice their concerns within the legal framework of our Land Use Code.

We learned that some of the closest neighbors were too intimidated in the December meeting to speak and ask you to invite their voice into the discussion in January.

FYI, we asked the county and legal staff to tell us whether or not our arguments are flawed, but they say they never provide legal advice to ordinary citizens.

We want to thank the many GEM community who vetted the paper and provided ideas and feedback on short notice. We are all citizen volunteers in the planning effort, and we want to remain a participating part of your team as you work to plan the growth in Ogden Valley.

Cordially,

Kimbal Wheatley, GEM chair

[and some other supporters who wanted to sign on in support; we suspect some who did not make our get-this-out-before-Christmas deadline will express their support via email]

Alex Sawicki, Brenda Schussman, Carol Campbell, Chris Thomas, David Jenkins, Denise Haldeman, Diane Evans, Doug Haldeman, Fred Tisue, Helene Liebman, Howard Haldeman, James Evans, Julie Tisue, Lee Schussman, Lil Sedgewick, Mike Yauck, Natasha Zangerie, Pat Thomas, Ron Tymcio, Stephen Clark, Susan Yauck, Ron Gault, Kim Wheatley, Debra Wheatley

Exhibit E- Public Comment

A legal framework for considering conditional uses in Ogden Valley

December 22, 2014

Utah Land Use Code (LUC) empowers OVPC to make reasonable decisions about Conditional Use Permit (CUP) applications based on whether or not reasonably anticipated detrimental effects can be substantially mitigated. Utah Land Use Code allows county land use planning authority (e.g., OVPC and/or WCC) to deny CUP applications when detrimental effects (as described in county LUC) cannot be substantially mitigated by applying additional conditions.

Title 17, Chapter 27 of Utah Code covers county land use and development. The General Land Use Authority section UC 17-27a-102(1) describes the purpose of this authority, granting counties the authority to use land use planning to promote a wide range of public purposes:

(a) *"The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values."*

Section (b) then grants counties the authority to employ a fairly full quiver of land use tools and public purposes to regulate county land use planning and code:

"(b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law."

Utah Code 17-27a-506 covers conditional uses and subsection (1) enables counties to allow conditional uses as well as to enable compliance with standards established in LUC ordinances

"(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance."

Then subsection (2) defines the conditions under which a CUP should be approved or denied (we think this is the section where "may" was changed to "shall" in the circa 2010 legislature):

"(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards."

Exhibit E- Public Comment

This appears to mean certain detrimental effects can be mitigated and, if so, the CUP must be approved. Then subsection (b) allows denial of CUP if detrimental effects can't be substantially mitigated:

"(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied."

The "applicable standards" are defined in "Standards" title 108 of Weber County LUC, which includes chapters for Design Review, Architecture, landscape and screening design, Conditional Uses, Lighting, Pathways, (and others). In the Conditions section (LUC Sec. 108-1-5) extends approval criteria beyond the specific zone and CUP chapter to broaden the definition of LUC standards:

"Design approval may include such other conditions consistent with the considerations of this, and/or any other chapter of the Weber County Land Use Code, as the commission or planning director deem reasonable and necessary under the circumstances to carry out the intent of the Land Use Code."

Thus, OVPC can apply any part of Weber County LUC as criteria for approving conditional uses to carry out the intent of the Land Use Code, which is usually described in the "purpose and intent" sections of the code.

Also in the Standards title, LUC Sec. 108-4-4 gives OVPC clear instruction about the criteria for issuing a CUP, including an obligation to deny the CUP if there is not sufficient evidence to prove that detrimental effects can be mitigated enough to meet applicable standards:

"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 Land Use Code and other applicable agency standards for such use."

The examples used to illustrate detrimental effects in section (1) in no way limits the range of possible detrimental effects to odor, vibration, light, dust, smoke, or noise. These examples simply list the specific restrictions further imposed for excavations (LUC Sec. 18-4-1).

Throughout the LUC, and with the General Plan for guidance, various values are expressed that set the overall community standards against which the critical phrases "detrimental effects" and "substantially mitigated" can be evaluated by OVPC in the CUP evaluation process. We might call these our community values, or our desired future for the development of the Valley, or our vision for it... we wrote these ideas into our general plan as best we could and without them as a guiding reference and standard, words like "*detrimenta*" and "*substantially*" are meaningless. The primary role of OVPC in the CUP process is to make a judgment around these two words.

Our Planning Department staff and public input into the process does a good job of identifying the possible detrimental effects. The role of OVPC is to determine if a detrimental effect is

Exhibit E- Public Comment

serious enough to warrant mitigation. The second role of OVPC is to determine whether such “reasonably anticipated detrimental effects” can be mitigated by various means, either proposed by the CUP applicant or imposed by OVPC. The key judgmental action of OVPC is to find whether or not the mitigation designs and conditions are sufficient to substantially reduce the detrimental effect. Repeating LUC 108-4-4 of the Standards chapter pretty well sums it up:

“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.”

It is important to note that the burden is on the CUP applicant or county staff or public input to prove (“presents evidence to establish”) that mitigation efforts will substantially reduce the harm (“detrimental effects”) of the CUP project going forward. Otherwise, OVPC “shall not approve”.

Accordingly, OVPC can and should consider effects of a CUP, but especially possible detrimental effects that run counter to the outcomes our LUC was created to achieve. Our Land Use Code clearly guides OVPC to evaluate specific possible detrimental effects in many cases; not so clearly in others. Here are some examples of where it is clear, but there are many more.

In Chapter 2, Standards, we define desirable standards for architecture, landscaping, screening.

- a) *The purpose and intent of design review by the planning commission is to secure the general purposes of this chapter and the master plan and to ensure that the general design, layout and appearance of buildings and structures and the development of property shall in no case be such as would impair the orderly and harmonious development of the neighborhood or impair investment in and occupation of the neighborhood. [LUC Sec. 108-1-1(a)]*
- b) *The purpose and intent of the architectural, landscape and screening design standards is to preserve the rural, mountainous landscape that exists in the Ogden Valley, and also accommodate new growth in commercial and industrial uses. The design standards include the following specific purposes: (1) Provide for commercial, industrial development that is aesthetically pleasing and compatible with the rural nature and natural setting of the Ogden Valley. (2) Provide a variety of colors, textures and forms in the environment that blend together in a harmonious manner. (3) Protect and preserve the appearance, character and public health, safety and welfare of the Ogden Valley. (4) Minimize the harmful impacts of noise, dust and other debris, motor vehicle headlight glare and other objectionable activities or impacts conducted or created by an adjoining or nearby uses. [LUC Sec. 108-2-1]*
- c) *Considerations relating to buildings and site layout. a. Consideration of the general silhouette and mass of buildings including location of the site, elevations, and relation to natural plant coverage, all in relationship to adjoining buildings and the neighborhood concept. b. Consideration of exterior design and building materials in relation to adjoining structures in height, bulk, and area openings, breaks in facade facing on a street or streets, line and pitch of roofs, and the arrangements or structures on the parcel. [Sec. 108-1-4 (a) & (b)]*
- d) *In order to preserve the rural character and public values of the Ogden Valley, this chapter is intended to regulate the permitted use of outdoor artificial illuminating devices*

Exhibit E- Public Comment

emitting undesirable rays into the night sky, glare to oncoming traffic, intrusion of light onto adjacent properties, and light pollution in general, which may have a detrimental effect on the welfare and safety of the populace, as well as the ambiance and rural character of the valley. [Sec. 108-16-1]

- e) Considerations relating to *traffic safety and traffic congestion*. a. The effect of the development on *traffic conditions on abutting streets*. [Sec. 108-1-4(1)(a)]
- f) *Pathways shall be required in all subdivisions, although some pathways may be of the shared roadway type described in subsection (1) a.4. of this section. The planning commission shall consider the master pathways map and determine whether a pathway corridor should be set aside and what the exact route and width of the corridor should be. Land set aside in this manner shall count toward the provision of open space for clustering and other requirements. [Sec. 108-17-4.(2)]*

In Chapter 1, General Provisions, we define what a conditional use is

- g) *Use, conditional. The term "conditional use" means a use, because of characteristics peculiar to it, or because of size, technological processes, or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control that mitigates or eliminates any detrimental impacts the use might have on the county, surrounding neighbors, or adjacent land uses and makes such uses consistent and compatible with other existing or permissible uses in the same districts, and assures that such uses shall not be adverse to the public interest. [LUC Sec. 101-1-7]*

In Chapter 1 we define the term "compatible", which is used three times in the applicable standards.

h) "The term "compatible" means capable of orderly efficient integration and operation with adjacent developments. A development is compatible with an existing on or off-site development or property if its architectural features, building height and materials, approved uses, intensity of such use and other features are complementary and do not have a significant adverse economic and aesthetic impact on the existing development or property."

The CUP process and application form further define our standards and communicate quite clearly the types of applications that will be denied:

- i) Conditional uses not necessary or desirable or do not *contribute to the general well being of the community*. [CUP application form]
- j) Conditional uses *detrimental to the general welfare of persons or injurious to property or improvements in the community*. [CUP application form]
- k) Conditional uses that are not *compatible with and complementary to the existing surrounding uses, buildings and structures when considering building design and location*. [CUP application form]
- l) Conditional uses that do not conform to *the goals, policies and governing principles and land use of the General Plan for Weber County*. [CUP application form]
- m) Conditional uses that will lead to the *deterioration of the environment or ecology of the general area*. [CUP application form]
- n) Conditional uses that will *produce conditions or emit pollutants of such a type or of such a quantity so as to detrimentally effect, to any appreciable degree, private properties*

Exhibit E- Public Comment

including the operation of existing uses thereon, in the immediate vicinity of the community or area as a whole. [CUP application form]

In our opinion It is clear that OVPC has the authority and obligation, both under state and county law, to anticipate harmful effects a CUP would have. The OVPC must then consider the intents and purposes of the Land Use Code and the General Plan in making judgments as to the extent of those harmful effects. If the OVPC finds sufficient, significant harmful effects, it must then asses and judge the degree to which the applicant will be able to mitigate them, and it must deny the application unless it is proven that the harmful effects are reduced to an acceptable level (as judged by OVPC).

Finally, there are meta “reasonably anticipated detrimental effects” that are not included in our LUC, but are certainly important in reality. All occur fairly regularly in CUP purgatory and our entire county planning process should seek to substantially mitigate them.

1. The detrimental effect of creating unwanted precedent
2. The detrimental effect of losing the public trust in the planning process and authority
3. The detrimental effect of bankruptcy when applicants fail in business
4. The detrimental effect of piecemeal approvals in the absence of a neighborhood plan
5. The detrimental effect of loopholes that undermine the intent of our LUC
6. The detrimental effect of pitting neighbors against neighbors

Exhibit E- Public Comment

CUP2014-29 provided the impetus for this paper. Addendum 1 lists the specific issues we believe OVPC should consider in deliberations about CUP2014-29; all are based on specific sections of our Land Use Code. These concerns represent reasonably anticipated detrimental effects of the proposed use and many will be difficult or impossible to substantially mitigate to achieve compliance with the intent of the ordinances.

Addendum 1

1. The mass, bulk, and height of the structure are not consistent with design norms for Ogden Valley. A structure of this size diminishes the rural, mountainous landscape and the appearance and character of Ogden Valley. The structure is a 71 foot high, 190,000 square foot building on 3.2 acres of land. The structure is extraordinary in height, bulk and mass by any reasonableness standard, but it helps to visualize its supersize with examples. The structure is the size of sixty-five 3,000 square foot residences stacked in a little over three acres. It has the square footage of a Walmart Super Center or four Home Depots. There is no structure within ten road miles that is even one-third the square footage size, and there is no building this tall along any county or state access route all the way to I-15. The detrimental impact of a precedent-setting building of this size, mass and bulk cannot be mitigated.
2. Existing residences directly south and adjacent to the structure will suffer significant adverse economic and aesthetic impact. Their views will be replaced by a five story building, averaging 54 feet high and running for 250 feet. Their decks are level with apartment block balconies and the building climbs to 71 feet in some places. Already their efforts to sell their homes are clouded by the prospect of a supersize condominium project within a few hundred feet of their bedrooms. The detrimental impact on the adjacent property owners cannot be substantially mitigated.
3. A structure of this size requires extraordinary measures to mitigate or eliminate any detrimental impacts the use might have on adjacent land uses.
 - a) The mass, bulk, and height of the structure impairs the orderly and harmonious development of a neighborhood in existence long before the CVR1 zone was created. Because of its size and location, It will have a detrimental impact on close by neighbors.
 - b) The mass of the proposed structure relates poorly to adjoining buildings and the neighborhood concept.
 - c) The structure is considerably oversized *in proportion to the recreational amenities* it is intended to service and clearly intended as its own attraction rather than as a service facility to the recreation asset. The Weber County Attorney stated in the December 2 OVPC meeting that such lack of proportionality is not allowed.
 - d) The proposed facility and uses to satisfy the 10% commercial requirement are not consistent with the intent of CVR1 zone.
 - e) Because of its bulk and mass, the 71 ft. high structure will create a "lantern effect," spewing light pollution. *[CUP application requirements]*. Light pollution from a building as tall as the planned Pine Canyon Lodge will affect all who have it in their view shed. Light pollution will have the detrimental effect of destroying the economic value potential for the Valley through accreditation of North Fork Park.
 - f) The 54 lockout rooms can effectively double the impact of traffic generation during peak seasons.ⁱ

Exhibit E- Public Comment

- g) Using a conditional use “loophole” in CVR1 to justify a 71-foot tall structure undermines the intent of County land use code. The use of CVR1 to enable high-density housing without going through any form of area or resort planning undermines the intent of County land use code.
- h) The condominium units are being sold as “residences,” a use not allowed in CVR1 zone.
- i) The condominium units are being sold as though nightly rentals are the norm, but nightly rentals are specifically excluded in CVR1. ⁱⁱ
- j) Granting this application is contradictory to actions taken in the past by the OVPC and sets precedents for other high-rise development in any of the other commercial zones in the Ogden Valley. Previous planning commissions have considered the overall “visual impacts” and the “heights” of planned structures very seriously. In the past, applicants have been directed to specifically show why exemptions from the visual impact and height requirements should be made if their buildings exceed the parameters in the zoning ordinances.

For example, before the commission granted a permit for the Wolf Creek Sewer building, which is 39 feet high, only 4 feet higher than the limit, the OVPC required that the applicant supply specific data documenting why the exemption to the height limit should be granted. (Ogden Valley Planning Commission; July 25, 2006; CUP #19-2006). Only after data was presented that the height was an engineering necessity to house the waste processing equipment inside and a desirable roof design would the commission approve the height.

Another example, also from 2006, was a request to rezone land to CVR1. The OVPC approved the rezone, but with this restriction included in the motion to approve: *“with the stipulation that there not be any expectation that a Conditional Use Permit would be issued to adjust the height of the Condo\Hotel”*. [Zoning Petition ZP#09-2006].

ⁱ The CUP requests, as a conditional use, a lockout room attached to every dwelling unit. This conditional use essentially doubles the effective density of the project with respect to the detrimental effects of traffic and congestion caused by lockout rooms during peak seasons. In the 2006 Recreation Element addition to the General Plan, the threat of excessive density was acknowledged and various strategies were proposed to avoid “killing the golden goose” by reducing overall density. LUC Sec. 108-7-25 is intended to mitigate the detrimental impact of lockout rooms by restricting them to a minimum three-day rental in CVR1 zone. However, the county has proved unable to enforce and control effective density in lockout units; indeed, the applicant is currently representing to potential buyers that (illegal) nightly rentals are permitted in the structure (“...nightly/vacation rentals are allowed...” The detrimental density effect of lockout rooms cannot be mitigated.

ⁱⁱ *The rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than three days is considered a nightly rental. Nightly rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD). [LUC Sec. 108-7-25.]*

Exhibit E- Public Comment

Kippen,Ronda

From: Jody Smith [jodybobandjj@gmail.com]
Sent: Tuesday, December 23, 2014 3:48 PM
To: Kippen,Ronda
Subject: Conditional use application - Nordic

Hi Rhonda,

We are in complete agreement with the letter from Kim Wheatley/GEM on the conditional use application for Nordic Valley. We would like to add our names to the letter and our voices to the opposition of the scope of this project.

Thanks,

Bob and Jody Smith
4263 E. 3450 N.
Eden, UT 84310



Weber County Planning Division

To: Ogden Valley Planning Commission
From: Charles Ewert, AICP
Date: November 3, 2014
Subject: Ordinance Revision Work Session: Title 108, Standards, Chapter 12, Noncomplying Structures and Nonconforming Uses/Parcels

Summary. The County is working on expanding certain public rights of way to facilitate street improvements. The right of way expansions may cause some abutting lots that are at the minimum zoning standards to drop below adopted standards. The current Land Use Code does not provide these land owners appropriate protections from the County considering their lots “illegal.” The attached ordinance revisions began as a simple addition to the *Noncomplying Structures and Nonconforming Uses/Parcels* chapter, as can be seen in the attached proposed code change as the new Section 108-12-15. However, as staff reviewed the chapter in its entirety it became apparent that other changes could help for clarity and administration. Those changes are also being presented here.

Background. The Engineering Department is currently working with the public along 3500 West and 12th Street to initiate a public right of way expansion of both roads. The expansions will take the front portions of the parcels that front these streets. The amount taken depends on a myriad of factors, such as the current right of way width, necessary road appurtenances, and proximity to intersections of streets and canals. A special ordinance is necessary that allows lots made noncompliant to current zoning standards to be considered a legal, nonconforming status. This will help clarify in the law that the current occupancy, use, and the right to initiate new uses, as may be allowed by the zone, may be continued on properties that drop below the zoning standards.

In the process of vetting language to enable this, staff found other areas of the code related to nonconforming parcels that need additional clarity. Under historic best management practices, and in model ordinances used throughout the country, the nonconforming use and noncomplying structures ordinance is intended to ensure that the right to continue existing uses and structures are vested throughout time, and are protected from zoning changes or standards changes presented by new ordinances (often referred to as “grandfathered”). However, the original intent of such an ordinance is to make the changes or modifications of nonconforming uses and structures so restrictive that future land owners are more motivated to eliminate the nonconformity and comply with new ordinance standards (achieved by reconfiguring property and/or tearing down old structures). This intent was a method of advancing the purposes of new ordinances, which were presumably enacted to better the health, safety, and welfare of the public.



Weber County Planning Division

In Weber County, such restrictiveness has not prevailed. Even though the framework of Chapter 108-12 *Noncomplying Structures and Nonconforming Uses/Parcels* appears to follow the framework of historic model ordinances, the chapter has been amended to be more permissive regarding the modification of noncomplying structures. It has also been amended with provisions on how to treat nonconforming lots, giving leniency to those lots created in a manner that did not comply with previous subdivision codes. Essentially, what this does is gives a grant of amnesty from subdivision requirements for these lots. The County does this for three reasons:

1. In some cases it is difficult to determine what laws were in effect at the time, and whether they complied with state laws of the time.
2. It is difficult to tell whether the County has consistently and fairly applied those laws to all people/properties.
3. It is politically unpalatable to penalize a successor for violations that were created by a prior owner.

These provisions are not proposed to be removed, but they are being revised to provide clarity.

Proposal. To provide for lots affected by the right of way expansion, Staff proposes the changes that can be found in the attached Exhibit A proposed code change, Section 108-12-15. Along with this new code section, a notice document has been created that will be recorded on the properties affected by right of way expansions. This notice will give current and future property owners notice of the new ordinance, and provide clarity in the record that their right to existing and new uses on the property will not be affected by the right of way expansion. This notice is provided in Exhibit B.

Regarding unplatted properties, the changes proposed in Exhibit A, under Section 108-12-11, maintain the flexibility of the current ordinance whilst also providing clarifications. One primary difference in the proposal that deviates from the historic standard of practice is the modified definition of "Lot, nonconforming." Current ordinance only lists that zoning area and zoning width standards may make a lot nonconforming. The new definition specifies that *all applicable standards* may make a lot nonconforming. The significance of this change is this: lot standards may be found in various places in the code, including the zoning ordinance and the subdivision ordinance. If a lot is legally created or modified under the standards of any land use code requirement at the time and any of those standards are later changed, then the lot is considered nonconforming as it relates to the changed standard, whatever that standard may be. The proposed definition is no longer limiting to zoning area and zoning width standards.



Weber County Planning Division

Because this change parts ways with historic application of this ordinance, both within Weber County and elsewhere, staff consulted with the Weber County legal team and the Office of the Property Rights Ombudsman to ensure the philosophy is keeping with the goal of maintaining a supportable and defensible code.

This new distinction is only important inasmuch as nonconforming lots are treated differently from conforming lots. Staff has searched the code for all references to nonconforming lots and cannot find any reference that this change may negatively affect.

Weber County Land Use Code Revision Workflow. This change fits into the workflow of ordinance changes as ongoing edits, clarifications, and additions to various sections of the Land Use Code, as can be seen in Exhibit C.

Planning Commission Consideration. As the Planning Commission hears and considers this proposed change there are several things to be looking for:

1. Does the proposed change comply with the purpose and/or intent of the specific code section or relevant zone? Every change should comply with that purpose/intent OR that purpose/intent should be changed to more accurately reflect current needs and desires.
2. Does the proposed change comply with the goals and objectives of the General Plan? You will need to dust off those general plans and refresh your knowledge of what is in them. The General Plan should act as a guide to vet land use ordinance decisions.
3. Does the proposed change promote the health, safety, and welfare of the community?
4. Does the proposed change provide equitable balance between land use rights and the public good?

Attachments:

- Exhibit A: Proposed Code Change – Right of Way Expansions Causing Nonconforming Lots
- Exhibit B: Sample Notice of Effect
- Exhibit C: Weber County Land Use Code Revision Process Workflow

Exhibit A: Code Change – Right of Way Expansions Causing Nonconforming Lots.

The following code changes are being proposed due to several planned public right of way expansion projects that may cause some lots to lose area and drop below the minimum lot standards of the applicable zone. During routine review of related code sections, staff found the need for greater clarity throughout, and are proposing such changes here.

This change addresses the following sections:

Sec 101-1-7. Definitions:

- Lot, nonconforming
- Lot of record (lawfully created lot)
- Noncomplying structure
- Nonconforming lot or parcel
- Nonconforming sign

Sec. 108-12-10. Legal use of nonconforming lots

Related Additions, Corrections, and Clarifications:

- Sec. 108-12. General Code Cleanup.
- Sec. 108-12-11. Subdivision Plat Requirements for Nonconforming Lots
- Sec. 108-12-13. Setback requirements for nonconforming lots.
- Sec. 108-12-14. Parcels previously combined

Key to changes:

Language that has been added is shown in blue underline.

~~Language that has been moved to a new location is shown in green double~~ strikeout.

~~Language that has been deleted is shown in red strikeouts.~~

Language that has been moved from an old location is shown in green double underline.

1 PART II LAND USE CODE ^[1]

2 Title 101 - GENERAL PROVISIONS

3 Title 102 - ADMINISTRATION

4 Title 103 - RESERVED

5 Title 104 - ZONES

6 Title 105 - RESERVED

7 Title 106 - SUBDIVISIONS

8 Title 107 - RESERVED

9 Title 108 - STANDARDS

10 Title 109 - RESERVED

11 Title 110 - SIGNS

12 **Title 101 GENERAL PROVISIONS ^[2]**

13 Sec. 101-1-1. Short title.

14 Sec. 101-1-2. Purpose.

15 Sec. 101-1-3. Interpretation.

16 Sec. 101-1-4. Conflict.

17 Sec. 101-1-5. Effect on previous ordinances and maps.

18 Sec. 101-1-6. Rules of construction.

19 Sec. 101-1-7. Definitions.

20 Sec. 101-1-8. Amendments to Code; effect of new ordinances; amendatory language.

21 Sec. 101-1-9. Supplementation of Code.

22 Sec. 101-1-10. Catchlines of sections.

23 Sec. 101-1-11. Altering Code.

24 Sec. 101-1-12. Severability of parts of Code.

25 Sec. 101-1-13. General penalty; continuing violations.

26 Sec. 101-1-14. Certain ordinances not repealed or affected by adoption of Code.

27 ...

28 **Sec. 101-1-7. Definitions.**

29 ...

30 *Lot, nonconforming.* The term "nonconforming lot" means a lot or parcel that complied
31 with all applicable standards in effect at the time of the lot's creation and, because of subsequent
32 changes to the Land Use Code, does not conform to the current applicable standards. Applicable

standards include standards of the zone in which the lot is located, standards of the subdivision ordinance, and other standards of this Land Use Code, of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of the ordinance from which this title is derived.

Lot of record (lawfully created lot). A lot of record is defined as any one of the following circumstances:

- (1) A parcel of real property identified as a building lot on an unrecorded subdivision plat that has been approved by Weber County and is on file in the Weber County Planning Office; or
- (2) A parcel of real property identified as a building lot on a subdivision plat that has been approved by Weber County and recorded in the office of the Weber County Recorder; or
- (3) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder before January 1, 1966; or
- (4) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and has undergone and successfully completed the Weber County subdivision process; or
- (5) A parcel/lot described in a deed, sales contract or survey that was recorded in the office of the Weber County Recorder in between January 1, 1966, and June 30, 1992, which complied with the zoning requirements in effect at the time of its creation and was shown to be the first or second division of a larger parent parcel; or
- (6) A parcel/lot that is the subject of a land division where Weber County, in compliance with Utah State Code, has expressly approved the division in anticipation of further land use approvals conditioned upon and as authorized by the Weber County Zoning Ordinance; or
- (7) A parcel/lot that does not fall within any one of the previously listed circumstances but has received a variance from the Weber County Board of Adjustment which has otherwise deemed a particular parcel/lot as a lot of record.

There are parcels/lots within Weber County that may have been created and subsequently recorded in the office of the Weber County Recorder, but were not lawfully created in accordance with Utah State Code or Weber County Ordinances/Policy as described herein. Weber County is not able to issue a land use permit and/or building permit for such parcels/lots.

Noncomplying structure. The term "noncomplying structure" means a structure that legally existed before its current land use designation and because of one or more subsequent

Comment [c1]: What needs to be done to consolidate this definition with the one below?

71 land use ordinance changes, does not conform to the setback, height restrictions, or other
72 regulations, excluding those regulations that govern the use of land.

Comment [c2]: Straight from State Code

73 ~~Nonconforming building or structure. The term "nonconforming building or structure"~~
74 ~~means a building or structure or portion thereof, lawfully existing at the time of the effective date~~
75 ~~of the ordinance from which this chapter is derived, which does not conform to all the height, area~~
76 ~~and yard regulations herein prescribed in the zone in which it is located.~~

Comment [c3]: Provided for in "noncomplying structure" above. A search for both "nonconforming building" and "nonconforming structure" of current code did not yield any results.

77 ~~Nonconforming lot or parcel. See "Lot, nonconforming."~~

78 ~~Nonconforming sign. See "Sign, nonconforming."~~

79 ~~Nonconforming use. The term "nonconforming use" means a use of land that legally~~
80 ~~existed before its current land use designation, has been maintained continuously since the time~~
81 ~~the land use ordinance regulation governing the land changed, and because of one or more~~
82 ~~subsequent land use ordinance changes, does not conform to the regulations that now govern~~
83 ~~the use of the land.~~

Comment [c4]: Straight from State Code.

84 ...

85 Title 108 STANDARDS

86 CHAPTER 1. - DESIGN REVIEW

87 CHAPTER 2. - OGDEN VALLEY ARCHITECTURAL, LANDSCAPE AND SCREENING DESIGN STANDARDS

88 CHAPTER 3. - CLUSTER SUBDIVISIONS

89 CHAPTER 4. - CONDITIONAL USES

90 CHAPTER 5. - PLANNED RESIDENTIAL UNIT DEVELOPMENT (PRUD)

91 CHAPTER 6. - TIME SHARE

92 CHAPTER 7. - SUPPLEMENTARY AND QUALIFYING REGULATIONS

93 CHAPTER 8. - PARKING AND LOADING SPACE, VEHICLE TRAFFIC AND ACCESS REGULATIONS

94 CHAPTER 9. - MOTOR VEHICLE ACCESS

95 CHAPTER 10. - PUBLIC BUILDINGS AND PUBLIC UTILITY SUBSTATIONS AND STRUCTURES

96 CHAPTER 11. - RESERVED

97 CHAPTER 12. - NONCOMPLYING STRUCTURES AND NONCONFORMING USES/PARCELS

Comment [c5]: Chapter of Focus

98 CHAPTER 13. - HOME OCCUPATION; SHORT TERM VENDORS; TEMPORARY OUTDOOR SALES; FARMER'S
99 MARKETS

100 CHAPTER 14. - HILLSIDE DEVELOPMENT REVIEW PROCEDURES AND STANDARDS

- 101 CHAPTER 15. - STANDARDS FOR SINGLE-FAMILY DWELLINGS
- 102 CHAPTER 16. - OGDEN VALLEY LIGHTING
- 103 CHAPTER 17. - OGDEN VALLEY PATHWAYS
- 104 CHAPTER 18. - DRINKING WATER SOURCE PROTECTION
- 105 CHAPTER 19. - ACCESSORY APARTMENTS
- 106 CHAPTER 20. - FOREST CAMPGROUNDS
- 107 CHAPTER 21 - AGRI-TOURISM
- 108 ...
- 109 **CHAPTER 12. NONCOMPLYING STRUCTURES AND NONCONFORMING USES/PARCELS**

- 110 Sec. 108-12-1. Purpose and intent.
- 111 Sec. 108-12-2. Maintenance, repairs, and alterations.
- 112 Sec. 108-12-3. Additions and enlargements.
- 113 Sec. 108-12-4. Alteration where parking insufficient.
- 114 Sec. 108-12-5. Moving noncomplying structures.
- 115 Sec. 108-12-6. Restoration of damaged buildings.
- 116 Sec. 108-12-7. One-year vacancy or abandonment.
- 117 Sec. 108-12-8. Change of use.
- 118 Sec. 108-12-9. Expansion of nonconforming use.
- 119 Sec. 108-12-10. Legal use of ~~parcels~~nonconforming lots.
- 120 Sec. 108-12-11. Subdivision plat requirements for nonconforming lots: exceptions. ~~Parcels in areas subjected~~
- 121 ~~to change in zoning.~~
- 122 Sec. 108-12-12. ~~Combining~~Enlarging nonconforming parcels.
- 123 Sec. 108-12-13. Setback requirements for nonconforming lots ~~Small lots/parcels created prior to zoning.~~
- 124 Sec. 108-12-14. ~~Parcels previously combined for tax purposes.~~
- 125 Sec. 108-12-15. ~~Effect of Public Right of Way Expansion.~~

126 **Sec. 108-12-1. Purpose and intent.**

127 The purpose and intent of this chapter is to provide standards for the development
 128 and use of noncomplying structures ~~and~~, nonconforming uses, ~~and nonconforming lots or~~
 129 parcels. These structures, uses, and ~~lots or~~ parcels are considered legal, despite not
 130 meeting the current requirements of the zone in which they are located.

131 **Sec. 108-12-2. Maintenance, repairs, and alterations.**

- 132 (a) Maintenance, repairs, and structural alterations may be made to noncomplying structures
133 on lots of record.
- 134 (b) Dwellings or other structures built on lots or parcels which were once legal, but have
135 since been ~~made illegal~~ modified in a manner that is in violation of applicable laws, shall
136 not be issued land use or building permits, unless the structure is being strengthened or
137 restored to a safe condition, or the lot or parcel is made to conform to current zoning
138 regulations. In restoring the structure to a safe condition, no expansion of the structure is
139 allowed.

140 **Sec. 108-12-3. Additions and enlargements.**

- 141 (a) A structure which is occupied by a nonconforming use shall not be added to or expanded
142 in any manner, unless such expansion is made to conform to all yard and use regulations
143 of the zone in which the structure is located.
- 144 (b) A noncomplying structure (main or accessory) shall not be added to or enlarged in any
145 manner, unless such addition or enlargement conforms to all the regulations of the zone
146 in which it is located, or conforms to the reduced yard setbacks as allowed in section
147 108-12-13
- 148 (c) A legally constructed dwelling or other structure on a lot of record, which has yard
149 setbacks that are less than the required yard setbacks for the zone in which it is located,
150 shall be allowed to have an addition, provided that:
- 151 (1) The addition does not encroach into the required yard setbacks further than the
152 existing dwelling or other structure; and
- 153 (2) The addition is located completely on the same property as the existing structure
154 and does not encroach into a road right-of-way or on to adjacent property.
- 155 (d) A legally constructed dwelling or other structure on a lot of record, which is located within
156 a stream corridor setback (as defined by the Weber County Land Use Code
157 sections 108-7-23 and/or 104-28-2, ~~shall be allowed to have an addition(s)~~ may be added
158 to or enlarged, provided that:
- 159 (1) The addition does not encroach into the stream corridor setback further than the
160 existing dwelling or other structure; and
- 161 (2) The addition meets the yard setback requirements of the zone in which it is
162 located or conforms to the reduced yard setbacks as allowed in section 108-12-
163 13; or

164 (3) The addition does not encroach into the required yard setbacks further than the
165 existing dwelling or other structure.

166 **Sec. 108-12-4. Alteration where parking insufficient.**

167 A structure lacking sufficient automobile parking space as required by this chapter
168 may be altered or enlarged, provided additional automobile parking space is supplied to
169 meet the requirements of the Weber County Land Use Code.

170 **Sec. 108-12-5. Moving noncomplying structures.**

171 A noncomplying structure shall not be moved in whole or in part to any other location
172 on a lot or parcel, unless every portion of such structure is made to conform to all
173 regulations of the zone in which it is located, or made to conform to the reduced yard
174 setbacks as allowed in section 108-12-13.

175 **Sec. 108-12-6. Restoration of damaged buildings.**

176 A noncomplying structure which is damaged or partially destroyed by fire, flood,
177 wind, earthquake, or other calamity, act of God, or the public enemy, may be restored and
178 the occupancy or use of such structure or part thereof, may be continued or resumed,
179 provided that such restoration is started within a period of one year, by obtaining a land use
180 permit, and is diligently pursued to completion.

181 **Sec. 108-12-7. One-year vacancy or abandonment.**

182 (a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and
183 which is or hereafter becomes vacant and remains unoccupied for a continuous period of
184 one year, except for dwellings and structures to house animals and fowl, shall not
185 thereafter be occupied except by a use which conforms to the use regulations of the
186 zone in which it is located. Wherever a nonconforming use has been discontinued for a
187 period of one year, such use shall not thereafter be re-established and any future use
188 shall be in conformance with the current provisions of the Weber County Land Use Code.

189 (b) Any building or structure for which a valid building permit has been issued and actual
190 construction was lawfully begun prior to the date when the structure became
191 noncomplying, may be completed and used in accordance with the plans, specifications
192 and permit on which said building permit was granted. The term "actual construction" is
193 hereby defined to be the actual placing of construction materials in their permanent
194 position, fastened in a permanent manner, actual work in excavating a basement or the
195 demolition or removal of an existing structure begun preparatory to rebuilding; provided

196 that in all cases actual construction work shall be diligently carried on until the completion
197 of the building or structure involved.

198 **Sec. 108-12-8. Change of use.**

199 The nonconforming use of a legal structure may not be changed except to a
200 conforming use. Where such a change is made to a conforming use, the use shall not
201 thereafter be changed back to a nonconforming use.

202 **Sec. 108-12-9. Expansion of nonconforming use.**

203 A nonconforming use may be extended to include the entire floor area of the existing
204 legal structure in which it was conducted at the time the use became nonconforming,
205 provided, however, that a ~~certificate of occupancy~~ Land Use Permit is first obtained for such
206 extension of use.

207 **Sec. 108-12-10. Legal use of ~~nonconforming lots~~ parcels.**

208 ~~(a) — Any legally created lot and/or parcel of land, which existed prior to adoption of the
209 Weber County Land Use Code/Zoning Map may apply to develop any of the permitted or
210 conditional uses for which the lot and/or parcel qualifies, in the zone where the lot and/or
211 parcel of land is located. In Western Weber County, the 1962 ownership plats are used as
212 the legal reference point, and in the Ogden Valley, the 1966 ownership plats are used as the
213 legal reference point.~~

214 ~~(b) — Any legally created lot and/or parcel of land which existed prior to the adoption of the
215 Weber County Land Use Code or an amendment to the Land Use Code, but which may now
216 require a different lot area or lot width/frontage, may apply to develop any of the permitted or
217 conditional uses for which the lot and/or parcel qualifies, in the zone where the lot and/or
218 parcel of land is located.~~

219 Development of any permitted or conditional use on a nonconforming lot, as defined
220 in Section 101-1-7, shall be allowed subject to this Chapter, the zone of the property, other
221 relevant sections of this Land Use Code, and other applicable local, state, and federal laws.

222 ...

223 **Sec. 108-12-11. ~~Parcels in areas subjected to change in zoning~~ Subdivision plat**
224 **requirements for nonconforming lots, exemptions.**

225 All lots and parcels shall be platted as part of a subdivision in conformance with the
226 requirements of Title 106 of this Land Use Code, unless otherwise exempted by State Code
227 or this Land Use Code. The platting of nonconforming lots, and the amendment to a platted
228 subdivision containing nonconforming lots are governed as follows:

229 (a). The following rules govern the treatment of unplatted lots that were created in
230 conformance with the lot standards of the zone in effect at the time of the lots creation
231 but not in conformance with the requirements of the subdivision code in effect at that
232 time:

233 (1) If the existing lot can be defined as a Lot of Record, as defined in Section 101-1-7,
234 the lot shall be exempt from subdivision platting requirements.

235 (2) If the existing lot was created prior to July 1, 1992, contained a single family dwelling
236 unit, and complied with the standards of the zone in effect at the time of the lots
237 creation, the lot shall be exempt from subdivision platting requirements, and is a
238 nonconforming lot.

239 (3) If the existing lot does not qualify for the provisions of subsections (a)(1) and (a)(2),
240 then the lot shall be platted in accordance with Title 106 of this Land Use Code. Lot
241 standards for such subdivision may be reduced to meet the minimum standards of
242 the zone in effect at the time of the lot's creation so long as it does not create any
243 more lots than currently exist. All such platted lots that do not conform to current
244 zoning standards shall thereafter be considered nonconforming lots. A lot that does
245 not meet the minimum standards of the zone in effect at the time of the lot's creation
246 may be reconfigured upon platting to comply with such standards as long as the
247 reconfiguration does not cause any other lot to become nonconforming or more
248 nonconforming. A lot platted pursuant to this subsection may be further reduced in
249 size to accommodate any right of way dedication as may be required by Title 106 of
250 this Land Use Code. No unplatted lot or parcel governed by this subsection shall be
251 granted a land use permit prior to subdivision platting.

252 (b) Any lot legally platted within the bounds of a subdivision that was created pursuant to the
253 standards of the zoning code and subdivision code in effect at the time of its creation, but
254 no longer complies due to subsequent changes to these codes, may be amended
255 pursuant to the minimum standards in effect at the time of its creation. The amendment
256 shall not create any new lots. An amended plat shall be required.

257 ~~Where lot area and/or frontage/width requirements have increased as a result of a change in~~
258 ~~zoning, the following shall apply:~~

259 ~~(f) ——— Parcels not meeting current zoning as to area and/or frontage/width~~
260 ~~requirements, but containing a single family dwelling which:~~

Comment [c6]: Initially I wrote this solely for lots that now no longer comply with zoning area, width, and frontage requirements of today's ordinances, however, it became apparent that such a narrow focus excludes lots that conform to today's zoning but were not properly platted.

Comment [c7]: Even if the lot complies with current zoning standards it does not comply with the current or former subdivision standards (otherwise, if it did, it would be defined as a "Lot of Record"), thus, it is nonconforming to subdivision standards.

- a. — Were built on and created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law and met area and frontage/width requirements for the zone in which they were created at the time they were created are considered nonconforming parcels; or
- b. — Were created and recorded with an existing single-family dwelling after July 1992 changes to the Utah Code, Subdivision Law but prior to the change in zoning, and met area and frontage/width requirements for the zone in which they were created at the time they were created shall submit an application for subdivision approval;
- c. — Were part of a legal subdivision, but were further divided, and met the requirements of subsections (1)a or b of this section shall be subject to the note below;

NOTE: No lot within a subdivision approved by the Planning Commission and County Commission and recorded in the County Recorder's Office in accordance with the provisions of the Subdivision Ordinance, shall be further divided, rearranged, added to or reduced in area nor shall the boundaries of any lot be altered in a any manner so as to create more lots than initially recorded without first obtaining the approval of the Land Use Authority. Therefore, an amended plat shall be required.

(2) — Parcels not meeting current zoning as to area and/or frontage/width requirements, containing a single-family dwelling which:

- a. — Were created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law;
 - b. — Are able to obtain the additional area and frontage/width which would bring the lot into compliance with the area and frontage/width requirements for the zone in which they were created at the time they were created; and
 - c. — Complied with all other county ordinances when built;
- may submit an application for subdivision approval provided they meet all other requirements of title 106, Subdivisions.

Field Code Changed

(3) — Parcels not meeting current zoning as to area and/or frontage/width requirements which:

- a. — Were created and recorded prior to July 1992 changes to the Utah Code, Subdivision Law; and
- b. — Met area and frontage/width requirements for the zone in which they were created at the time they were created;

299 may submit an application for subdivision approval provided they meet all other
300 requirements of title 106.

Field Code Changed

301 (4) Lots/parcels which are subject to subsections (1), (2), or (3) of this section,
302 and have boundary descriptions that fall within a roadway, shall be allowed to develop
303 with the lot/parcel area that remains after dedicating land for the roadway, as required
304 by the Weber County Land Use Code.

305 (5) Parcels that have been combined by the county recorder's office for tax
306 purposes shall be allowed to separate one or more of the combined parcels on an
307 approved and recorded form provided:

308 a. The parcels that are being separated were originally created prior to July
309 1982 changes to the Utah Code, and Subdivision Law;

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310 b. The properties as configured prior to the combination met area and
311 frontage/width requirements for the zone in which they were created, or were
312 considered nonconforming parcels;

313 c. The combination was done by the current owner or same owner acting as
314 trustee, and was done by a quit claim, combination form, or other instrument, which
315 states the consolidation of parcels is for tax purposes;

316 d. No new lots are being created;

317 e. The separation of parcels results in a configuration consistent with the
318 original parcels and conforms to the ordinance that was in place prior to the recording
319 of the combination form; and

320 f. The separation of combined parcels authorized under this subsection does
321 not authorize a change in the configuration of an approved and recorded subdivision
322 or lots within such subdivision. A subdivision plat cannot be changed unless an
323 amended subdivision plat is prepared and recorded in accordance with Utah Code
324 and title 106 of the Land Use Code.

Comment [c8]: Moved to new section 108-12-14 below.

325 **Sec. 108-12-12. Combining Enlarging nonconforming parcels.**

326 Nonconforming lots may be reconfigured in a manner that complies with the
327 standards of the zone in effect at the time of the lot's creation if the reconfiguration does not
328 create any more lots than currently exist. The reconfiguration shall not cause any other lot to
329 become nonconforming or more nonconforming. If the nonconforming lot is part of a platted
330 subdivision an amended subdivision plat is required. ~~Parcels not meeting current zoning as~~
331 to area and frontage/width requirements that were legally created or made legal through the
332 provisions of this chapter, may be enlarged by combining adjoining parcels provided that:

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- (1) The combination is achieved by submitting a subdivision if any of the parcels were part of a recorded subdivision or by combining parcels if they have metes and bounds descriptions;
- (2) All adjoining parcels under common ownership, or brought under common ownership after the date of the adoption of this section are merged to create the largest lot possible;
- (3) The combination does not result in any illegal divisions of land; and
- (e) Structures built on the newly created lot shall resemble the architectural style, height, size and mass of existing noncommercial structures on parcels within 500 feet of the newly created lot, and meet all current setback and height requirements of the zone in which the combination is made.

Sec. 108-12-13. Setback requirements for nonconforming lots, Small lots/parcels created prior to zoning.

A nonconforming lot or parcel that has a smaller width than is required for the zone in which it is located may be developed in a manner that does not exceed the following allowed reduction in side yard setbacks:

- (1) A nonconforming lot's/parcel's actual width (v) may be divided by the current required frontage/width (w) in order to formulate a ratio or proportional relation (x).
- (2) The ratio may then be multiplied by the current zone's side yard setback requirement (y) in order to establish a reduced setback (z).
- (3) The reduced side yard setback is subject to the conditions listed below.
(Formula: $v \div w = x$, $x \times y = z$.)
 - a. Under no circumstances shall an interior lot/parcel be allowed to reduce the side-yard setback requirement below five feet on one side and eight feet on the other.
 - b. Under no circumstances shall a corner lot/parcel be allowed to reduce the side-yard requirement below ten feet when the side yard fronts on a street.

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Comment [c9]: Why? Will we require similar arch styles as adjacent parcels for all residences?

Also, the setbacks may still need to be reviewed under the provisions of 108-12-13 if the lot still does not meet current width and area requirements.

I recommend deleting this section.

Sec. 108-12-14. Parcels previously combined for tax purposes.

Comment [c10]: This section was buried in 108-12-11, but was not relevant to the heading of that section. It has been placed in its own section, with a new section number and heading.

364 (a) Parcels that have been combined by the county recorder's office for tax purposes shall be
365 allowed to separate one or more of the combined parcels on an approved and recorded form
366 provided:

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367 (a)(1) a. The parcels that are being separated were originally created prior to July 1,
368 1992; changes to the Utah Code, and Subdivision Law;

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369 (b)(2) b. The properties as configured prior to the combination met area and
370 frontage/width requirements for the zone in which they were created, or were considered
371 nonconforming parcels;

372 (c)(3) e. The combination was done by the current owner or same owner acting as
373 trustee, and was done by a quit claim, combination form, or other instrument, which
374 states the consolidation of parcels is for tax purposes;

375 (d)(4) d. No new lots are being created; and

376 (e)(5) e. The separation of parcels results in a configuration consistent with the
377 original parcels and conforms to the ordinance that was in place prior to the recording of
378 the combination form, and the resulting lots conform with the provisions of Section 108-
379 12-11; and

Comment [c11]: This is additional language to
provide for the possibility that some lots were
created illegally, then combined, and now being
separated. Those lots need to be brought into
conformance, and may need to be platted if the
provisions of 108-12-11(a)(3) apply.

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380 (f)(b) f. The separation of combined parcels authorized under this subsection does not
381 authorize a change in the configuration of an approved and recorded subdivision or lots within
382 such subdivision. A subdivision plat cannot be changed unless an amended subdivision plat is
383 prepared and recorded in accordance with Utah Code and title Any change to the configuration
384 of a subdivision must comply with Title 106 of the Land Use Code, and any applicable state
385 law.

386 Sec. 108-12-15. Effect of Public Right of Way Expansion.

387 (a) Any structure that legally existed with conforming or nonconforming setback prior to the
388 expansion of a public right of way where the expansion of such public right of way makes
389 the structure noncomplying or more noncomplying to the setback requirements of this
390 Land Use Code, shall be deemed a legal, noncomplying structure.

Comment [c12]: Intended to help lots reduced
in size by ROW expansions.

391 (b) Any lot or parcel that legally existed in a conforming or nonconforming status prior to the
392 expansion of a public right of way where the expansion of such public right of way makes
393 the lot or parcel nonconforming or more nonconforming to the standards of this Land Use
394 Code, shall be deemed a legal, nonconforming lot or parcel.

Comment [c13]: Intended to help lots reduced
in size by ROW expansions.

395 (c) This section does not excuse or exempt any past or future action that creates or modifies
396 a lot or parcel in a manner that is in violation of applicable laws.





Weber County

Notice of Effect
Public Right of Way Expansion of Street Name

Legal Description

SEE EXHBIT A

RE: Potential Nonconformity on Land Due to the Expansion of the Street Name Right of Way, as part of Project Number and Description.

The parcel of land with the Land Serial Number # _____ is currently zoned ZONE _____
(ZONE SYMBOL).

This notice is intended to document how the above specified right of way expansion project affects the subject property. If the property legally existed in a conforming or legal nonconforming status prior to the expansion of the public right of way, and the expansion of the public right of way has made the lot or parcel nonconforming or more nonconforming to the lot standards of the subject property's zone, the property shall be deemed legal, even though nonconforming. Any further development of it shall be allowed pursuant to and in compliance with Weber County Code §108-12, and other applicable local, state, and federal laws. The same consideration will be given for structures affected by the expansion of a public right of way; if the setbacks are made noncomplying or more noncomplying the structure shall be deemed legal, even though noncomplying.

Note: This notice does not excuse or exempt any past or future action that creates or modifies a lot, parcel, or structure in a manner that is in violation of applicable laws.

_____ Dated this ____ day of _____, 20____

Sean Wilkinson
Planning Director

STATE OF UTAH)
 :ss
COUNTY OF WEBER)

On the _____ day of _____, 20____, personally appeared before me _____ the signer(s) of the foregoing instrument, who duly acknowledged to me that he/she/they executed the same.

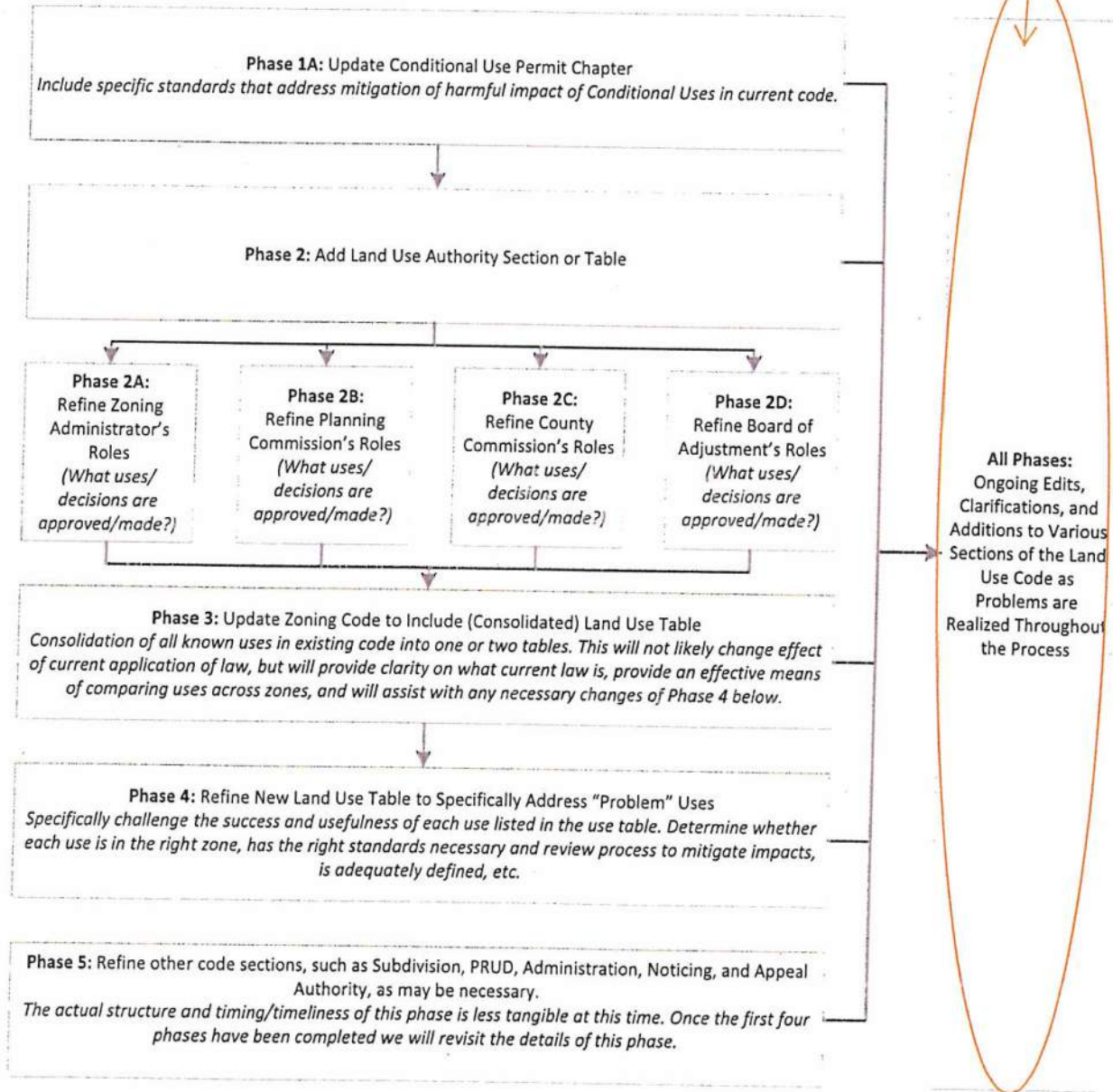
Notary Public

Residing at _____

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

The proposed edits fall here





Weber County Planning Division

To: Ogden Valley and Western Weber Planning Commissions
From: Charles Ewert, AICP
Date: November 10, 2014
Subject: Weber County Land Use Code Revision Process: Main Use, Accessory Use, Main Building, Accessory Building

Summary. During routine workflow staff has discovered a point of conflict in the Land Use Code regarding how the definition of the main and accessory building works with the definition of main and accessory use. In essence, these definitions do not allow an *accessory building* on a lot or parcel that does not have a *main building*. However, the first thing listed in most zones is "accessory building or use customarily incidental to any permitted or conditional use." This listed use implies that an *accessory building* can be allowed on a property without a *main building* as long as it is incidental to a *main use*. This conflict should be resolved.

Under existing ordinances, the impacts, aesthetics, allowed uses and form of an *accessory building* may not necessarily be all that different from a *main building*. However, a *main building* is required to be established and adhere to certain setback standards that are more restrictive than those for an *accessory building* before such an *accessory building* is established on any property. The only substantial difference between the two building types is the setback requirements. Uses of the buildings must comply with those uses listed in whatever zone the building is located.

In this memo the Planning Commission will find an analysis of this topic in the context of current general plans and the land use code. Of particular emphasis, staff analyzes and compares the intent and preferences of certain zones, the separation of incompatible land uses, and whether current codes and the general plans provide land owners/users sufficient motivations to establish or continue the preferred uses of the zone. This discussion has specific impact on open air agricultural uses, thus the analysis hones in on those uses.

This memo proposes a recommended ordinance change. In keeping with the status quo, the proposed changes only clarify the code in a manner that matches how the current administration already applies such concepts. The proposal does not speak to the higher-arching implications provided in the analysis. As the Planning Commission explores the higher-arching concepts more thoroughly it may be determined that current policy perspectives need to change. If that is the case, then the included proposal will need to change as well.

Background. This discussion was spearheaded by an applicant that desired to build an accessory building on his property. The property is a legal, subdivided, and conforming lot. The property is also vacant, with the exception of occasional agricultural uses. The property owner asserted that the structure would be accessory to the agricultural use.

The current land use code (LUC), under the definitions of *accessory building*, *main building*, *accessory use*, and *main use*, does not allow for this. It does not allow an accessory building to be placed on a lot that does not have a "main building." In essence, what this means is that any main use of property that is an open air use of property (i.e., agriculture, agritourism, golf course, public and private park, reservoir, mining operations, parking lot, etc.) may not have an accessory building to support the use unless and until a main building has been established. To complicate this, most zones list "accessory building or use customarily incidental to any permitted or conditional use" as a permitted use in the zone, leading one to think that an accessory building can be established without a main building.

Staff has been able to find other means to help the gentleman get what he wants, but these other means tend



Weber County Planning Division

Zoning was originally conceived to separate incompatible uses. It appears that, historically, Weber County has not provided a clear separation between residential uses and other incompatible open air uses. In fact there is evidence in the General Plan(s) and existing code construction that there is an expectation in the agricultural zones and agricultural areas that residential and open air agricultural uses will be located in close proximity to each other.

In determining appropriate policy perspectives, staff and the Planning Commission(s) are supposed to be looking to, first, the general plan and, second, the intent of the zone for guidance. The following analysis takes a closer look at the general plan for both Western Weber and Ogden Valley, and follows with a review of the purpose and intent of specific zones.

General Plan Analysis. The Western Weber General Plan indicates that there is a strong desire to protect agricultural uses. The plan has a dichotomy though, wherein the folks in Western Weber appear to be reluctant to preserve agricultural areas. Instead, they desired to retain the opportunity to develop their agricultural lands in the future at the minimum zoning acreage (primarily one acre lot sizes for residential development). Additionally, the Western Weber County "Proposed Land Use Map"^a designates the majority of Western Weber as "Residential/Agricultural." This does not provide a clear preference on how to treat the issue at hand.

The Ogden Valley General Plan^b establishes a goal to "promote agricultural land" with the following objectives:

1. Identify and promote prime agricultural land
2. Consider agricultural land in dedicated open space planning
3. Develop means to compensate property owners for the loss of development rights on agricultural land
4. Promote working farms as an integral part of the Valley's cultural heritage.

However, like the Western Weber General Plan, this plan does not provide a clear preference on how to approach the conflicting adjacent land use issue.

Ordinance Analysis. Even though the general plans do not provide clear direction, the intent of certain zones do. Those zones listed below explicitly state that agricultural uses are desirable. In the A-1, A-2, A-3, and AV-3 zones it appears as if the language is attempting to protect agricultural uses from the affects of residential uses. In the RE-15 and RE-20 zones it appears the opposite is the case:

A-1:

The purpose and intent:

The purpose of the A-1 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment.^c

^a See the West Central Weber County General Plan, pg 33.

^b See the Ogden Valley General Plan.

http://www.co.weber.ut.us/mediawiki/index.php/Ogden_Valley_General_Plan

^c See LUC §104-5-1



Weber County Planning Division

AV-3

The purpose and intent:

The purpose of the AV-3 Zone is to designate farm areas, which are likely to undergo a more intensive urban development, to set up guidelines to continue agricultural pursuits, including the keeping of farm animals, and to direct orderly low-density residential development in a continuing rural environment.^j

The preferred use:

Agriculture is the preferred use in Agricultural Valley, AV-3. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the zone.^k

Accordingly, it appears that the agricultural zones that also allow residential uses are intended to protect and preserve agricultural properties/operations, while residential zones that also allow agricultural uses are intended to protect residential neighborhoods. This is keeping with the requirements of the subdivision code^l which requires a note on every subdivision plat that states that:

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 no allowed agricultural use shall be subject to restriction on the basis that it interferes with activities of future residents of this subdivision.

These elements of the code speak purely to the intent of the zones. What they do not anticipate is that both residential uses and agricultural uses are allowed in all of these zones without a conditional use permit, or other mechanism to assist with the impacts of incompatible uses. What this means is that an owner of a lot that meets the minimum zone requirements in any of these zones are entitled to either uses without additional review for mitigation of impacts. The zones allow them, by right, to reside adjacent to each other – which in some cases will be in close proximity. Rather than regulating the separation of uses, these code references instead provide the public with 'notice' that there is no separation.

This issue begs the question: is the County providing adequate separation of incompatible uses? Why does the Land Use Code indicate that agricultural uses are preferred in zones that allow for one acre – or even three acre – lot sizes? Are one to three acres lots sizes sufficient to support agricultural operations? What about other open air land uses? For example, as it stands, the current County Code enables suburban one acre lot sizes adjacent to agricultural operations in the A-1 and A-2 zones. The current County Code even allows agricultural operations to exist within these subdivisions. The Planning Commission(s) should evaluate and discuss whether greater separation is needed. This is a much higher reaching discussion than the topic at hand that may drive the need for a General Plan amendment and other ordinance revisions if the Planning Commissions do not feel existing ordinances are doing their job effectively.

Proposal. In keeping with the status quo, the following proposal is only intended to clarify the code in a manner that matches how the current administration already applies such concepts. The proposal does not

^j See LUC §104-6-1

^k See LUC §104-6-2

^l See LUC §26-1-9(B)(5)

Exhibit A: Code Change – Provisions for Main and Accessory Buildings, and Main and Accessory Uses, and Related Changes to Permitted and/or Conditional Uses in Each Zone.

The following code changes are being proposed to clarify regulations regarding the allowance for main and accessory buildings, specifically as they are applied to open air main uses of land.

This change addresses the following sections:

Title 101 General Provisions

Sec. 101-1-7. Definitions:

Building, accessory

Building, main

Use, accessory

Use, main

Title 104 Zones

Sec. 104-3-2. - Permitted uses.(RE-14 and RE-20)

Sec. 104-4-1. - Permitted uses (G)

Sec. 104-5-3. Permitted uses (A-1)

Sec. 104-6-3. - Permitted uses (AV-3)

Sec. 104-7-3. - Permitted uses (A-2)

Sec. 104-8-3. - Permitted uses (A-3)

Sec. 104-9-2. - Permitted uses (F-5, F-10, F-40)

Sec. 104-10-2. - Permitted uses (S-1)

Sec. 104-10-2. - Permitted uses (CVR-1)

Sec. 104-12-2. - Permitted uses (R-1-12, R-1-10)

Sec. 104-13-2. - Permitted uses (FR-1)

Sec. 104-14-2. - Permitted uses (FV-3)

Sec. 104-15-2. - Permitted uses (R-2)

Sec. 104-16-2. - Permitted uses (R-3)

Sec. 104-17-2. - Permitted uses (FR-3)

Sec. 104-18-2. - Permitted uses (RMHP)

Sec. 104-19-2. - Permitted uses (RMH-1-6)

1 **PART II LAND USE CODE** 

2 Title 101 - GENERAL PROVISIONS

3 Title 102 - ADMINISTRATION

4 Title 103 - RESERVED

5 Title 104 - ZONES

6 Title 105 - RESERVED

7 Title 106 - SUBDIVISIONS

8 Title 107 - RESERVED

9 Title 108 - STANDARDS

10 Title 109 - RESERVED

11 Title 110 - SIGNS

12 **Title 101 GENERAL PROVISIONS**

13 Sec. 101-1-1. Short title.

14 Sec. 101-1-2. Purpose.

15 Sec. 101-1-3. Interpretation.

16 Sec. 101-1-4. Conflict.

17 Sec. 101-1-5. Effect on previous ordinances and maps.

18 Sec. 101-1-6. Rules of construction.

19 Sec. 101-1-7. Definitions.

20 Sec. 101-1-8. Amendments to Code; effect of new ordinances; amendatory
21 language.

22 Sec. 101-1-9. Supplementation of Code.

23 Sec. 101-1-10. Catchlines of sections.

24 Sec. 101-1-11. Altering Code.

25 Sec. 101-1-12. Severability of parts of Code.

26 Sec. 101-1-13. General penalty; continuing violations.

27 Sec. 101-1-14. Certain ordinances not repealed or affected by adoption of Code.

28 ...

62 **Title 104 ZONES**

- 63 CHAPTER 1. - IN GENERAL
- 64 CHAPTER 2. - (RESERVED)
- 65 CHAPTER 3. - RESIDENTIAL ESTATES ZONES RE-15 AND RE-20
- 66 CHAPTER 4. - GRAVEL ZONE G
- 67 CHAPTER 5. - AGRICULTURAL ZONE A-1
- 68 CHAPTER 6. - AGRICULTURAL VALLEY AV-3 ZONE
- 69 CHAPTER 7. - AGRICULTURAL A-2 ZONE
- 70 CHAPTER 8. - AGRICULTURAL ZONE A-3
- 71 CHAPTER 9. - FOREST ZONES F-5, F-10, AND F-40
- 72 CHAPTER 10. - SHORELINE ZONE S-1
- 73 CHAPTER 11. - COMMERCIAL VALLEY RESORT RECREATION ZONE CVR-1
- 74 CHAPTER 12. - SINGLE-FAMILY RESIDENTIAL ZONES R-1-12, R-1-10
- 75 CHAPTER 13. - FOREST RESIDENTIAL ZONE FR-1
- 76 CHAPTER 14. - FOREST VALLEY ZONE FV-3
- 77 CHAPTER 15. - TWO-FAMILY RESIDENTIAL ZONE R-2
- 78 CHAPTER 16. - MULTIPLE-FAMILY RESIDENTIAL ZONE R-3
- 79 CHAPTER 17. - FOREST RESIDENTIAL ZONE FR-3
- 80 CHAPTER 18. - RESIDENTIAL MOBILE/MANUFACTURED HOME PARK ZONE RMHP
- 81 CHAPTER 19. - RESIDENTIAL MANUFACTURED HOME ZONE RMH-1-6
- 82 CHAPTER 20. - COMMERCIAL ZONES C-1, C-2, C-3
- 83 CHAPTER 21. - COMMERCIAL VALLEY ZONES CV-1 and CV-2
- 84 CHAPTER 22. - MANUFACTURING ZONE M-1
- 85 CHAPTER 23. - OGDEN VALLEY MANUFACTURING ZONE MV-1
- 86 CHAPTER 24. - MANUFACTURING ZONE M-2
- 87 CHAPTER 25. - MANUFACTURING ZONE M-3

114 **Sec. 104-5-3. Permitted uses.**

115 The following uses are permitted in Agriculture Zone A-1:

- 116 (1) Accessory building incidental to the use of a main building; main building
117 designed or used to accommodate the main use to which the premises are
118 devoted; and accessory uses customarily incidental to a main use; ~~Accessory~~
119 ~~building or use customarily incidental to any permitted or conditional use.~~
120 (2) Agriculture, agricultural experiment station; apiary; aviary; aquarium.
121 ...

122 **CHAPTER 6. AGRICULTURAL VALLEY AV-3 ZONE**

123 ...

124 **Sec. 104-6-3. - Permitted uses.**

125 The following uses are permitted in the Agricultural Valley, AV-3 Zone:

- 126 (1) ~~Accessory building or use customarily incidental to any permitted or conditional~~
127 ~~use.~~ Accessory building incidental to the use of a main building; main building
128 designed or used to accommodate the main use to which the premises are
129 devoted; and accessory uses customarily incidental to a main use;
130 (2) Agriculture, agricultural experiment station; apiary; aviary; aquarium.
131 ...

132 **CHAPTER 7. AGRICULTURAL A-2 ZONE**

133 ...

134 **Sec. 104-7-3. - Permitted uses.**

135 The following uses are permitted in the Agriculture Zone A-2:

- 136
137 (1) ~~Accessory building or use customarily incidental to any permitted or conditional~~
138 ~~use.~~ Accessory building incidental to the use of a main building; main building
139 designed or used to accommodate the main use to which the premises are
140 devoted; and accessory uses customarily incidental to a main use;
141 (2) Agriculture, agricultural experiment station; apiary; aviary; aquarium.

170 The following uses are permitted in the

- 171 (1) Accessory building incidental to the use of a main building; main building
172 designed or used to accommodate the main use to which the premises are
173 devoted; and accessory uses customarily incidental to a main use; ~~Accessory~~
174 ~~buildings, structures and uses customarily incidental to a permitted use.~~
- 175 (2) Agriculture, grazing and pasturing of animals.
- 176 (3) Boating.
- 177 ...

178 **CHAPTER 11. COMMERCIAL VALLEY RESORT RECREATION ZONE CVR-1**

179 ...

180 **Sec. 104-11-4. - Conditional uses**^[c2].

181 The following uses shall be allowed only when authorized by a Conditional Use Permit obtained as
182 provided in title 108, chapter 4 of this Land Use Code.

- 183 (1) Beer parlor, sale of draft beer.
- 184 (2) Bed and breakfast inn.
- 185 ...
- 186 (34) Restaurants, including those with drive-up windows.
- 187 (35) Accessory building incidental to the use of a main building; main building
188 designed or used to accommodate the main use to which the premises are
189 devoted; and accessory uses customarily incidental to a main use; ~~Accessory~~
190 ~~uses to the above listed.~~
- 191 ...

192 **CHAPTER 12. SINGLE-FAMILY RESIDENTIAL ZONES R-1-12, R-1-10**

193 ...

194 **Sec. 104-12-2. - Permitted uses.**

195 The following are permitted uses in the Single-Family Residential Zones R-1-12, R-1-10.

- 196 (1) Accessory building incidental to the use of a main building; main building
197 designed or used to accommodate the main use to which the premises are
198 devoted; and accessory uses customarily incidental to a main use; ~~Accessory~~
199 ~~buildings and uses customarily incidental to any permitted use.~~
- 200 (2) Agriculture.

228 The following uses are permitted in the Two-Family Residential Zone R-2:

- 229 (1) Accessory building incidental to the use of a main building; main building
230 designed or used to accommodate the main use to which the premises are
231 devoted; and accessory uses customarily incidental to a main use; ~~Accessory~~
232 ~~buildings and uses customarily incidental to any permitted use.~~
233 (2) Agriculture.
234 (3) Bachelor and/or bachelorette dwelling with 24 or less dwelling units.
235 ...

236 **CHAPTER 16. MULTIPLE-FAMILY RESIDENTIAL ZONE R-3**

237 ...

238 **Sec. 104-16-2. - Permitted uses.**

239 The following uses are permitted in the Multiple-Family Residential Zone R-3:

- 240 (1) Accessory building incidental to the use of a main building; main building
241 designed or used to accommodate the main use to which the premises are
242 devoted; and accessory uses customarily incidental to a main use; ~~Accessory~~
243 ~~buildings and uses customarily incidental to any permitted use.~~
244 (2) Agriculture.
245 (3) Bachelor and/or bachelorette dwelling with 24 or less dwelling units.
246 ...

247 **CHAPTER 17. FOREST RESIDENTIAL ZONE FR-3**

248 ...

249 **Sec. 104-17-2. - Permitted uses.**

250 The following uses are permitted in the Forest Residential Zone FR-3:

- 251 (1) Accessory building incidental to the use of a main building; main building
252 designed or used to accommodate the main use to which the premises are
253 devoted; and accessory uses customarily incidental to a main use. ~~Accessory~~
254 ~~building or accessory use customarily incidental to a use permitted in the zone.~~
255 (2) Cluster subdivision in accordance with title 108, chapter 3.
256 ...

284 In the following list of possible uses, those designated in any zone as "P" will be a permitted use. Uses
 285 designated as "C" will be allowed only when authorized by a conditional use permit obtained as provided
 286 in [title 108](#), chapter 4 of this Land Use Code. Uses designated "N" will not be allowed in that zone.

	C-1	C-2	C-3
<u>Accessory building incidental to the use of a main building; main building designed or used to accommodate the main use to which the premises are devoted; and accessory uses customarily incidental to a main use;</u> Accessory buildings and uses customarily incidental to a permitted use	P	P	P
Air conditioning, sales and service	N	N	P

287 ...

288 **CHAPTER 21. COMMERCIAL VALLEY ZONES CV-1 and CV-2**

289 ...

290 **Sec. 104-21-5. - Uses.**

291 In the following list of possible uses, those designated in any zone as "P" will be a permitted use. Uses
 292 designated as "C" will be allowed only when authorized by a conditional use permit obtained as provided
 293 in [title 108](#), chapter 4 of this Land Use Code. Uses designated "N" shall not be allowed in that zone.

	CV-1	CV-2
Academies/studios for dance, art, sports, etc.	C	P
<u>Accessory building incidental to the use of a main building; main building designed or used to accommodate the main use to which the premises are devoted; and accessory uses customarily incidental to a main use;</u> Accessory buildings and uses customarily incidental to a permitted or conditional uses	P	P
Animal hospital	N	C

294 ...

323 ...

324 CHAPTER 25. MANUFACTURING ZONE M-3

325 ...

326 Sec. 104-25-2. - Permitted uses.

327 The following uses are permitted in the M-3 Zone:

- 328 (1) Any permitted use in an M-2 Zone except dwelling units.
- 329 ~~(2)~~ ~~Accessory uses and buildings customarily incidental to a permitted use.~~^[c4]
- 330 ~~(3)~~(2) Laboratories.
- 331 ~~(4)~~(3) Machine shop.
- 332 ~~(5)~~(4) Office, business, professional and governmental.
- 333 ~~(6)~~(5) Public buildings and utilities.
- 334 ~~(7)~~(6) Warehouse.
- 335 ~~(8)~~(7) Welding shop.
- 336 ...

337 CHAPTER 26. OPEN SPACE ZONE O-1

338 ...

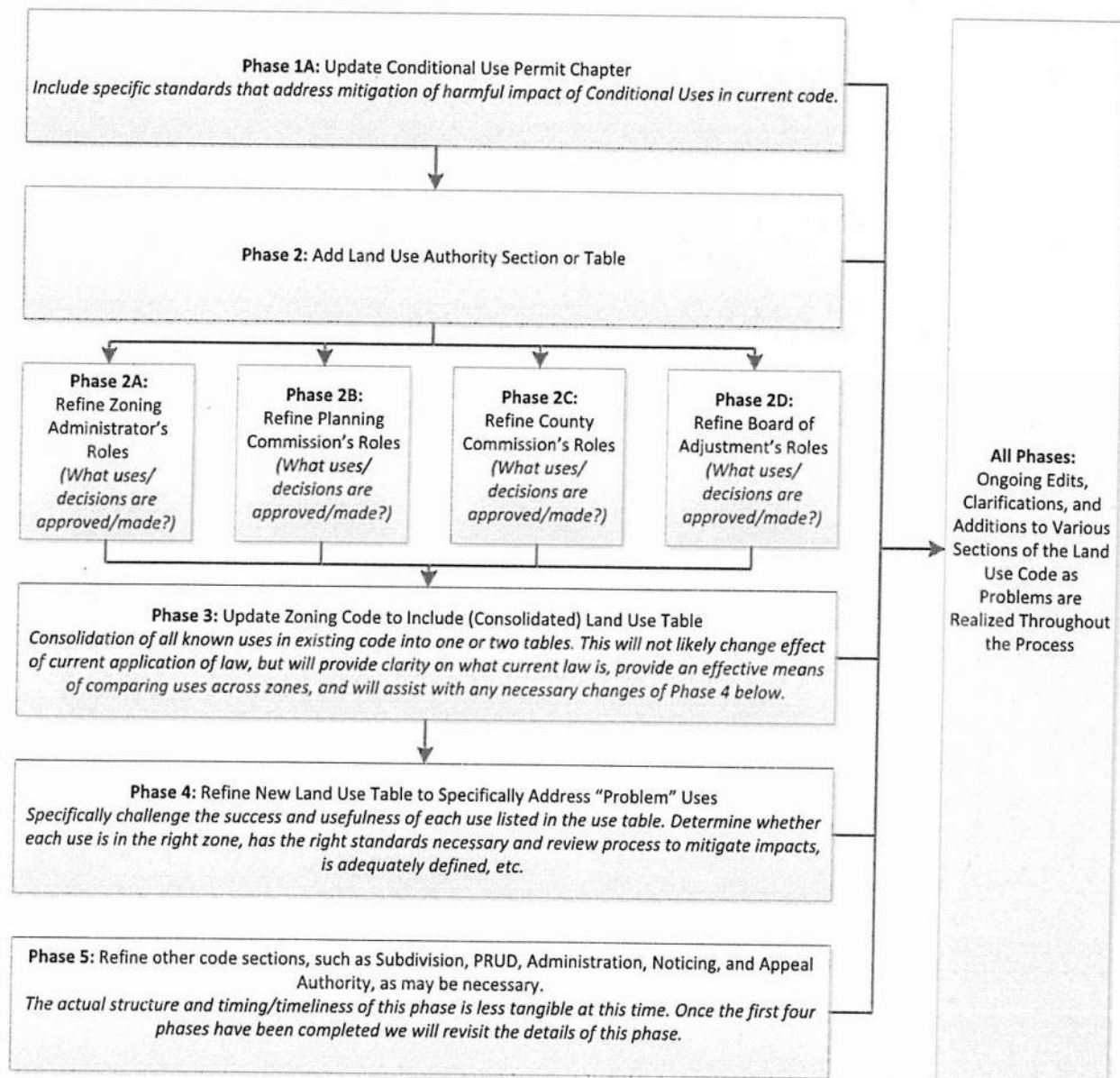
339 Sec. 104-26-2. - Permitted uses.

340 The following uses are permitted in the Open Space Zone O-1.

- 341 (1) Accessory building incidental to the use of a main building; main building
- 342 designed or used to accommodate the main use to which the premises are
- 343 devoted; and accessory uses customarily incidental to a main use;
- 344 ~~(1)~~(2) Agriculture.
- 345 ~~(2)~~(3) Botanical or zoological garden.
- 346 ~~(3)~~(4) Cemetery.
- 347 ~~(4)~~(5) Conservation areas: botanical or zoological.
- 348 ~~(5)~~(6) Fishing ponds; private or public.
- 349 ~~(6)~~(7) Golf course, except miniature golf courses.
- 350 ~~(7)~~(8) Horse raising, provided conducted in a pasture of at least five acre size and with
- 351 a maximum density of two horses per acre.
- 352 ~~(8)~~(9) Private park, playground or recreation area.

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.





Weber County Planning Division

To: Ogden Valley and Western Weber Planning Commissions
From: Charles Ewert, AICP
Date: December 31, 2014
Subject: Weber County Land Use Code Revision Process: Conditional Use Standards

Background. It has been determined that the County's current codes regarding the applicable standards for conditional use permits may be lacking appropriate substance to provide for complete and defensible decisions. Staff is focused and dedicated to provide the County with an efficient land use code that provides optimal protection to the health, safety, and welfare of the public while also providing land owners consistency and predictability in decision making.

This memo provides supplemental and supporting material to assist the Planning Commission and staff to discuss the future of conditional use permitting.

Analysis. State code provides that conditional uses are permitted uses in the code, and as such the applicants are entitled to approval. The only difference between conditional and permitted uses is that conditional uses are subject to heightened review for mitigation of detrimental effects. If the conditional use complies with the code, and conditions can be imposed to mitigate detrimental effects, the applicant gets their permit.

Historically, conditional use permits were used as a discretionary tool to choose which uses will be approved, and which ones will not be. This historical application was overturned by fairly recent court cases wherein the courts declared that conditional use permits may not be unreasonably denied. This shift gave many jurisdictions cause to review the listed uses in each zone to evaluate whether they should even be allowed in their respective zones.

For those communities that have not already revised their use tables to remove the conditional uses that are not compatible or harmonious with surrounding uses, it may be tempting to continue to use the conditional use process to "weed out" the undesirable uses. It may often be tempting to use the process to create imagined or perceived detrimental effects in an attempt to deny an application. Staff strongly discourages this method of deliberation, as it can quickly become subject to creative decision making. The point of administrative decisions is to remove subjective creativity and provide for consistent and predictable decision patterns. Consistent and predictable applications of the law are two core fundamentals to protecting land use rights. We are in the business of setting – and then upholding – expectations.

Because a conditional use permit is an administrative decision, discretion is limited. On appeal, the only thing the applicant needs to do is prove that the decision, or part of it, was arbitrary, capricious, or illegal. Creative decision making makes the final decisions arguably arbitrary, capricious, or illegal. Thus, in order to provide defensible decisions for conditional use permits, the land use authority must avoid the perception of "making it up as we go." To do this, the decisions must be based on objectively determined criteria, and pursuant to state law, that criteria must be based on objectives and standards in the ordinance.

For this reason, staff recommends that the Planning Commission consider the possibility of listing more objective standards in the land use code. The current recommendation is for the ordinance to provide a "menu" of possible detrimental impacts, and a "menu" of possible ways to mitigate them. These menu items should be sufficiently general so as to best provide for the infinite possibilities for impacts, but also contain clear parameters of what will (or by omission, will not) be regulated.



Weber County Planning Division

Limits to Discretion. Providing more specific standards will provide natural limits to decision making. The Planning Commission should evaluate to what level their discretion will be limited. Maximum limits on discretion will provide maximum objectivity, but may also expose the County to unanticipated detrimental effects. Maximum limits may also require long and cumbersome ordinances to offset the potential for unanticipated detrimental effects. Minimum limits to discretion can expose a decision to indefensible subjectivity, but they provide for the optimal flexibility to anticipate and provide for detrimental effects. There is a middle ground somewhere between the two that can provide for optimal objectivity while also giving a bridled level of flexibility.

Consider the attached code excerpts from Morgan County, South Salt Lake City, Draper City, and Millard County. The Morgan County standards are much longer than the others. Morgan County attempted to provide maximum objectivity with limited discretion in decision making by creating a large menu that lists as many potential effects as possible and provides a general method of vetting conditions for each. The Draper City code does the opposite. It is short, succinct, but also gives the reader the impression that the land use authority has unbridled discretion to determine any condition for conditional uses. On closer evaluation of their other codes, they limited their discretion by providing specific requirements for all uses in other sections of their code. The Millard County code and South Salt Lake City codes find middle ground in the conditional use standards. The Planning Commission will note in reviewing each of these what elements of development each jurisdiction prioritizes. For example, in South Salt Lake, a city that is built-out, they are focused on more urban-centric issues like traffic and circulation patterns.

"But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

-James Madison. Federalist The Federalist No. 51

Consider the attached code excerpts from Morgan County, South Salt Lake City, Draper City, and Millard County. The Morgan County standards are much longer than the others. Morgan County attempted to provide maximum objectivity with limited discretion in decision making by creating a large menu that lists as many potential effects as possible and provides a general method of vetting conditions for each. The Draper City code does the opposite. It is short, succinct, but also gives the reader the impression that the land use authority has unbridled discretion to determine any condition for conditional uses. On closer evaluation of their other codes, they limited their discretion by providing specific requirements for all uses in other sections of their code. The Millard County code and South Salt Lake City codes find middle ground in the conditional use standards. The Planning Commission will note in reviewing each of these what elements of development each jurisdiction prioritizes. For example, in South Salt Lake, a city that is built-out, they are focused on more urban-centric issues like traffic and circulation patterns.

Planning Commission Consideration. The Planning Commission should determine where they want Weber County's code to be. Staff recommends that the County move toward an ordinance that limits discretion, but not so much that administration of the code becomes cumbersome to administer. We should then address each conditional use provided in the land use code to determine whether they should be allowed in their respective zones. A review of the general plan(s) will assist us in doing so.

Attachments. In the attached exhibits the planning Commission will find the documents as listed below. They are being provided for the Planning Commission's reference, and may prove useful during our discussion.

- Exhibit A: Conditional Use Permit Deliberation Method
- Exhibit B: Excerpts from other codes: Examples of Conditional Use Standards
- Exhibit C: Weber County Land Use Code Revision Process Workflow

Conditional Use Permit Deliberation Method

This simple exercise outlines the four-step deliberation process for approving a conditional use permit. The Planning Commission may find it useful to help establish a consistent, predictable, efficient, and defensible method for conditional use decisions.

Note: CUP denial should be rare. Discretion is limited. Pursuant to UCA §17-27a-508 "an applicant is entitled to approval of a land use application if the application conforms to [the County's] requirements..." In other words, if it is listed in the code, it is allowed. With every conditional use review the Land Use Authority should take note of whether the allowance of the use in the zone is conducive to the intent of the zone and the intent of the General Plan. If it is not, then the code and/or plan should be changed. This provides for the continual evaluation of the codes and general plan – as is the prerogative of the Planning Commission under UCA §17-27a-302.

Step one: Identify the use to be evaluated. The use must be listed as a conditional use in the zone in which the use is located. The applicant will have likely already specified the use; however, the Land Use Authority should be familiar with the uses permitted in each zone. Some uses do not fit within the tightly defined parameters of what is listed in the code. Some uses may fall into multiple categories of regulation. It is up to the Land Use Authority to find that the request aligns with the intent of the code and is reviewed in accordance with the applicable process and applicable standards.

Use: _____

Step two: Identify the potential detrimental effects of the use. General detrimental effects of the use should be spelled out in the land use code (i.e. , vibration, light, dust, smoke, noise, etc.). More specific effects may be listed as long as the land use code enables the Land Use Authority to regulate them.

Step three: Identify the reasonable conditions that can substantially mitigate the detrimental effects. Keep in mind, "substantial mitigation" is not "total elimination." General conditions should be listed in the land use code, but the Land Use Authority may formulate more specific requirements for the conditional use permit as long as they address standards of the land use code.

Detrimental Effects:

Reasonable Conditions:

Step Four: Provide findings. You have already found that there are detrimental effects. You have also found reasonable conditions to apply that will substantially mitigate the effects. These are all findings. Other findings to help support your decision beyond these are findings about the use's compliance with the land use code, whether the use will protect the general health, safety, and welfare of the County's residents, and how the use complies with the vision, goals and objectives of the General Plan. Your findings are intended to provide clear and defensible support for your decision.

Examples of Conditional Use Standards

Morgan County's Code:

8-8-4: PERFORMANCE STANDARDS FOR CONDITIONAL USES:

There is a need to promote healthy and visually and auditory attractive environments, and to reduce conflicts between different land uses. As part of the purpose to protect the health, safety, convenience and general welfare of the inhabitants of the county, the performance standards delineated in this section are intended to conserve, enhance, restore and maintain significant natural and manmade features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply, watersheds, flood storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, historic features and sites and scenic views and vistas, and to establish criteria and standards for the development, change of use, or alteration of such features. As responsible parties, applicants for conditional use permits shall meet all specific requirements made in this title. The planning commission may establish additional requirements as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, general plan and neighborhood needs, performance and administration. More specifically, and without limitation, the planning commission may require:

A. Conditions Relating To Safety For Persons And Property:

1. Building elevations and grading plans which will prevent or minimize floodwater damage, where property may be subject to flooding.
2. The relocation, covering or fencing of irrigation ditches, drainage channels, and other potential attractive nuisances existing on or adjacent to the property.
3. Increased setback distances from lot lines where the planning commission determines it to be necessary to ensure the public safety and to ensure compatibility with the intended characteristics of the district as outlined in this title.
4. Appropriate design, construction and location of structures, buildings and facilities in relation to any earthquake fault which may exist on the property, and limitations and/or restrictions on the use and/or location of uses due to special site conditions, including, but not limited to, geologically hazardous areas; floodplains; fault zones; landslide areas.
5. Limitations and control of the number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and appearance and harmony with adjacent development.
6. Plans for the location, arrangement and dimensions of truck loading and unloading facilities.
7. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants and street lighting.
8. Reduction of permitted street grades for winter and storm conditions, or exposure.
9. Fences shall not create visual nor other safety hazards.
10. Backing movements, passing vehicles, sidewalk traffic, small children, etc., shall be considered in the location of fences and effects on circulation system.

11. Numbers and types of vehicles per time period associated with the conditional use activities.
12. Time of day and days of the week conditional use may operate.

B. Conditions Relating To Health And Sanitation:

1. A guarantee of sufficient water to serve the intended land use and a water delivery system meeting standards adopted by the governing body.
2. A wastewater disposal system and a solid waste disposal system meeting standards adopted by the governing body.
3. Construction of water mains, sewer mains and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the district and to provide for an orderly development of land in the county.

C. Environmental Concerns:

1. Limitations and/or restrictions on the use and/or location of uses in sensitive areas due to soils capabilities, wildlife and plant life.
2. Standards intended to conserve, enhance, restore and maintain significant natural and manmade features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, historic features and sites and scenic views and vistas, and to establish criteria and standards for the development, change of use, or alteration of such features.
3. Processes for the control, elimination or prevention of land, water or air pollution; the prevention of soil erosion; and the control of objectionable odors. Processes for the control, elimination or prevention of land, water or air pollution; the prevention of soil erosion; and the control of objectionable odors.
 - a. These processes may include restrictions on degradation of water quality.
 - b. Developments which produce any discharge to any watercourse shall demonstrate compliance with all federal, state and county water quality standards as evidenced by the issuance of any permits required for their discharge by the federal government, state and/or county.
 - c. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to final approvals for the project. It is the responsibility of any person, corporation or other entity doing any act on or across a stream, watercourse or swale, or upon the floodplain or right of way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain or right of way during such activity.
4. The planting of ground cover or other surfacing to prevent dust and erosion.

- a. The proposed land disturbing activity will ensure and provide an undisturbed vegetation buffer from the top of the bank of a stream, wetland or other water body, unless a mitigation plan is approved for alterations within the buffer area.
 - b. Whenever feasible, natural vegetation will be retained and protected.
 - c. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
 - d. Plans will be made to accommodate increased runoff and sedimentation caused by altered soil and surface conditions during and after the proposed activity.
5. Restructuring of the land and planting of the same as directed by the planning commission when the conditional use involves cutting and/or filling the land and where such land would be adversely affected if not restructured.
6. Limitations and/or restrictions on construction and/or development on slopes in excess of thirty percent (30%) to control erosion.
7. If the proposed conditional use involves hillside construction and/or development, the application will be approved only after the applicant provides:
- a. Topographic information showing that the proposed activity is on land with a slope less than thirty percent (30%) and that it is located more than two hundred feet (200') from a known landslide.
 - b. A geologic/geotechnical report which shall be in form and content approved by the county engineer, consisting of, among other things, a slope stability study, earthquake analysis and sedimentation analysis, prepared by a certified engineering geologist or geotechnical engineer approved by the county engineer, certifying that the site or route in its entirety is suitable for the proposed development.
 - c. Such other engineering or technical reports as may be required by the planning commission or governing body.
 - d. Detailed construction plans, drawings and specifications which outline all construction methods proposed to be utilized.
8. In all cases, the applicant may be required to supply a geologic report, a geotechnical study, a hydrological study, a civil engineering study and other applicable engineering studies required by the planning commission or governing body acceptable in form and content to the county engineer.
9. The applicant's conditional use may be limited or denied if blasting, drilling or any other construction activity involved will weaken, or cause, adjoining slopes, geologic formations and manmade improvements to become unstable or if the proposed construction or operation will result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding or drainage modifications.
10. Standards to maintain the integrity/existence of natural drainage patterns as determined by the planning commission.
11. Construction methods, specifications, drawings, plans and practices as requested by the county engineer.
12. An environmental assessment and/or an environmental impact statement which includes an alternatives analysis performed by a company approved in advance by the planning commission may be required.

a. The environmental assessment/environmental impact statement shall identify all environmental concerns, including, but not limited to, visual and auditory aesthetics, erosion control, land, water and air pollution, and an alternatives analysis.

b. The alternatives analysis in the environmental assessment/environmental impact statement will address all reasonably possible alternatives to the proposed project. In the event the proposed use is a utility line or pipeline for the transportation, transmission, delivery or receipt of water, natural gas, electricity, telephone, cable television or any other similar use, public property or roadway rights of way shall be utilized to the extent possible and the least damaging practical alternative is presumed to be such public property or roadway rights of way; condemnation of private property for such uses is not favored and will only be allowed if there is no other reasonably practical alternative. This analysis must demonstrate that the applicant's chosen alternative is the least environmentally damaging of those alternatives available.

c. A finding of no other practicable alternative for the proposed use may be made after demonstration by the applicant that:

(1) The basic purpose of the project cannot reasonably be accomplished using another alternative.

(2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration or density of the project as proposed, or by changing the design of the project in a way that would result in fewer adverse effects.

(3) If the applicant has rejected other alternatives, the applicant shall show that a reasonable attempt has been made to remove or accommodate the constraints associated with the rejected alternative.

13. Such other or additional standards as may be established by the planning commission or governing body as they may deem necessary for the protection of the health, safety, convenience and general welfare of the present and future inhabitants of the county and the environment.

D. Conditions Relating To Compliance With Intent Of General Plan And Characteristics Of Vicinity (Or Neighborhood):

1. The removal of structures, debris or plant materials, incompatible with the intended characteristics of the district outlined in this title.

2. The screening of yards or other areas as protection from obnoxious land uses and activities.

3. Landscaping to ensure compatibility with the intended characteristics of the district as outlined in this title.

4. Limitations or controls on the location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent development, or to conceal storage areas, utility installations or other unsightly development.

5. The relocation of proposed or existing structures as necessary to provide for future streets on the major street plan of the county, adequate sight distances for general safety, groundwater control, or similar problems.

6. Provision for or construction of recreational facilities necessary to satisfy needs of the conditional use.

7. Population density and intensity of land use limitations where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety and welfare, or conservation of values.

8. Other improvements which serve the property in question and which may compensate in part or in whole for possible adverse impacts to the district from the proposed conditional use.
9. Conservation of values; community, neighborhood and property values.
10. The character of the neighborhood and aesthetics of the streetscape shall be considered in the location of fences and in determining the reduction of any front yard for fencing purposes.

E. Conditions Relating To Performance:

1. Time limits on the validity of the conditional use permit. Such time limits shall be determined by the following guidelines:
 - a. A conditional use permit for uses which are of a temporary nature only may be issued for the intended duration of the temporary use or for two (2) years, whichever period of time is shorter.
 - b. Unless there is substantial and positive development action under a conditional use permit within a period of one year of its issuance, said permit shall expire. The planning commission and governing body may grant a maximum extension for one year, when deemed in the public interest.
2. The planning commission and/or governing body may require the applicant to pay a performance and completion bond for one hundred fifteen percent (115%) of the cost of construction. The planning commission and governing body may also require a performance bond for one hundred fifteen percent (115%) of the cost of rehabilitation to ensure that proper rehabilitation is made over a three (3) year period. The rehabilitation requirements will be determined by the county engineer.
3. Specific short and long range plans of development may be required to demonstrate timeliness, feasibility and impact on the public.
4. The applicant may be required to demonstrate that the general and specific requirements of this title are met. In addressing these requirements, the applicant and the planning commission shall give due regard to the nature and condition of adjacent uses and structures. The environmental and other concerns, including, but not limited to, visual and auditory aesthetics, erosion control, energy conservation concerns and water and air pollution listed in this section under performance standards for conditional uses apply.
5. In connection with and as a condition of approval of any application for a conditional use, the applicant shall sign such agreements in form and content approved by the county attorney, planning commission and governing body embodying any of the standards or requirements set forth herein or otherwise established by the planning commission and/or governing body.

F. Energy Conservation Concerns:

1. Solar orientation of buildings and uses.
2. Use of renewable energy sources.
3. Efficiency of exterior lighting.

4. Shading and protection of important buildings and pavings (parking lots, etc.), landscaping and trees, location of buildings and screens.
5. Effective use of vestibules.
6. Wind screening.
7. Circulation (travel) efficiency.
8. Efficiency of stormwater removal and erosion control.
9. Maintenance efficiency for off site improvements to be maintained by the public.
10. Maintenance efficiency for on site improvements to be maintained by users, occupants and owners, etc.

Examples of Conditional Use Standards

Millard County's Code:

Section 10-8-5—Reasonable Conditions Authorized for Approval for a Conditional Use or Conditional Sign Applications:

The Commission and the BOCC may impose reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, hours of operation, and other items for the approval of a Conditional C-1 or C-2 Use Application or Conditional Sign

Application deemed necessary by the Commission or BOCC to mitigate possible detrimental effects of the proposed use or sign, to secure the purposes of this Ordinance, and to protect adjacent properties and the public interest. Reasonable conditions may include;

- 1) Size, configuration, and site plan design and layout.
- 2) Site ingress and egress locations.
- 3) The provision of adequate public facilities and amenities, including roads and streets, water, sewer, storm drainage, public safety and fire protection, and other utilities.
- 4) The location and amount of off-street parking and loading areas.
- 5) Site circulation patterns for vehicular and pedestrian traffic.
- 6) Building(s) and sign(s) size and location(s), building and sign design and features, materials, and colors.
- 7) The location and design of all site features, including the location of proposed building(s), sign(s), lighting, and waste collection.
- 8) The provision of open space, public features, and recreational amenities.
- 9) Fencing, screening, buffering, and landscape treatments and other features designed to increase the attractiveness of the site and protect adjoining property owners from adverse impacts.
- 10) Measures designed to minimize or eliminate potential nuisance factors including, but not limited to noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances, and radiation.
- 11) Measures designed to protect the natural features of the site, including, but not limited to, rivers and creeks, lakes and reservoirs, wetlands, drainage ways, ground water protection, and slopes.
- 12) The regulation of operating hours.
- 13) Identifying a time for regular review and monitoring to ensure the use or sign continues to operate in compliance with all conditions and requirements of approval.
- 14) Such other conditions determined reasonable and necessary by the BOCC to allow the operation of the use or sign in compliance with the requirements of this Ordinance, all other Land Use Ordinances, and all Federal, State, or Local regulations, as applicable.

Examples of Conditional Use Standards

South Salt Lake City's Code:

17.09.060. Review Standards

The land use authority shall require each conditional use applicant to address the following standards, where appropriate:

A. Zoning ordinance compliance. The proposed conditional use shall be consistent with small area master plans, general plan and future land use map applicable to the site where the conditional use will be located.

B. Use Compatibility. Reasonable conditions may be imposed to ensure optimal compatibility with the character of the site, adjacent properties, and existing development within the vicinity of the proposed site. In determining compatibility, the land use authority considers:

1. Whether access to the site can be achieved without materially degrading the service level on any streets which would serve for access;
2. Whether the proposed use would create unusual pedestrian or traffic patterns or volumes that would not be expected with a permitted use in that location, taking into consideration the orientation of streets and driveways, parking areas and sizes, hours of peak traffic, and the hours of operation at the proposed site;
3. Whether utility and public services will be adequate to support the proposed use at normal service levels without adverse impacts on adjacent uses or resources; and
4. Whether buffering or other mitigation measures will be provided to protect adjacent lands from unlawful or excessive noise, light, odor or visual impact, or from other unusual disturbances from deliveries, mechanical equipment or trash collection.

C. Design Compatibility. The proposed conditional use shall be compatible with the character of the area where the use will be located, and the land use authority may impose reasonable conditions that address reasonably anticipated detrimental effects related to:

1. Size, configuration and location of the site and the proposed site plan layout;
2. Proposed site ingress and egress to existing and proposed roads and streets;
3. The adequacy, provision, relocation, or protection of public facilities and amenities, including roads and streets, culinary water, secondary water, sanitary sewer, storm drainage, flood protection, public safety and fire protection, and other utilities;
4. Design, location and amount of off-street parking, loading areas and solid waste disposal and collection areas;
5. Site circulation patterns for vehicular, pedestrian or other traffic;
6. Mass, size, number, location, design, exterior features, materials, and colors of buildings, structures and other facilities;
7. The location and design of all site features, including proposed signage, lighting and refuse collection;
8. The provision of useable open space, public features, and recreational amenities;

9. Fencing, screening and landscape treatments, including those required by the landscape requirements of this code at 17.25 for conditional uses, and other features designed to increase the attractiveness and safety of the site and protect adjoining property owners from noise, visual, and other impacts;
10. Measures directed at minimizing or eliminating possible nuisance factors such as noise, vibrations, smoke, dust, dirt, debris, plant materials, odors, gases, noxious matter, heat, glare, hazardous waste, electromagnetic disturbances, and radiation;
11. Measures designed to protect the natural features of the site including wetlands and drainage ways, ground water protection, soils, wildlife and plant life;
12. The regulation of operating hours for activities affecting normal schedules and functions; 13. Identifying a time for regular review and monitoring, as determined necessary, to ensure the use continues to operate in compliance with all conditions and requirements of approval;
14. Measures to ensure compliance with all conditions and requirements of approval, such as bonds, letters of credit or restrictive covenants;
15. Any other condition necessary for the proposed use to be conducted in compliance with local, state and federal law.

Examples of Conditional Use Standards

Draper City's Code:

Section 9-5-080 Conditional Use Permits.

(4) The following factors shall be reviewed and considered in determining whether a Conditional Use Permit application should be approved, approved with conditions, or denied because reasonable conditions cannot be imposed to achieve compliance with applicable standards:

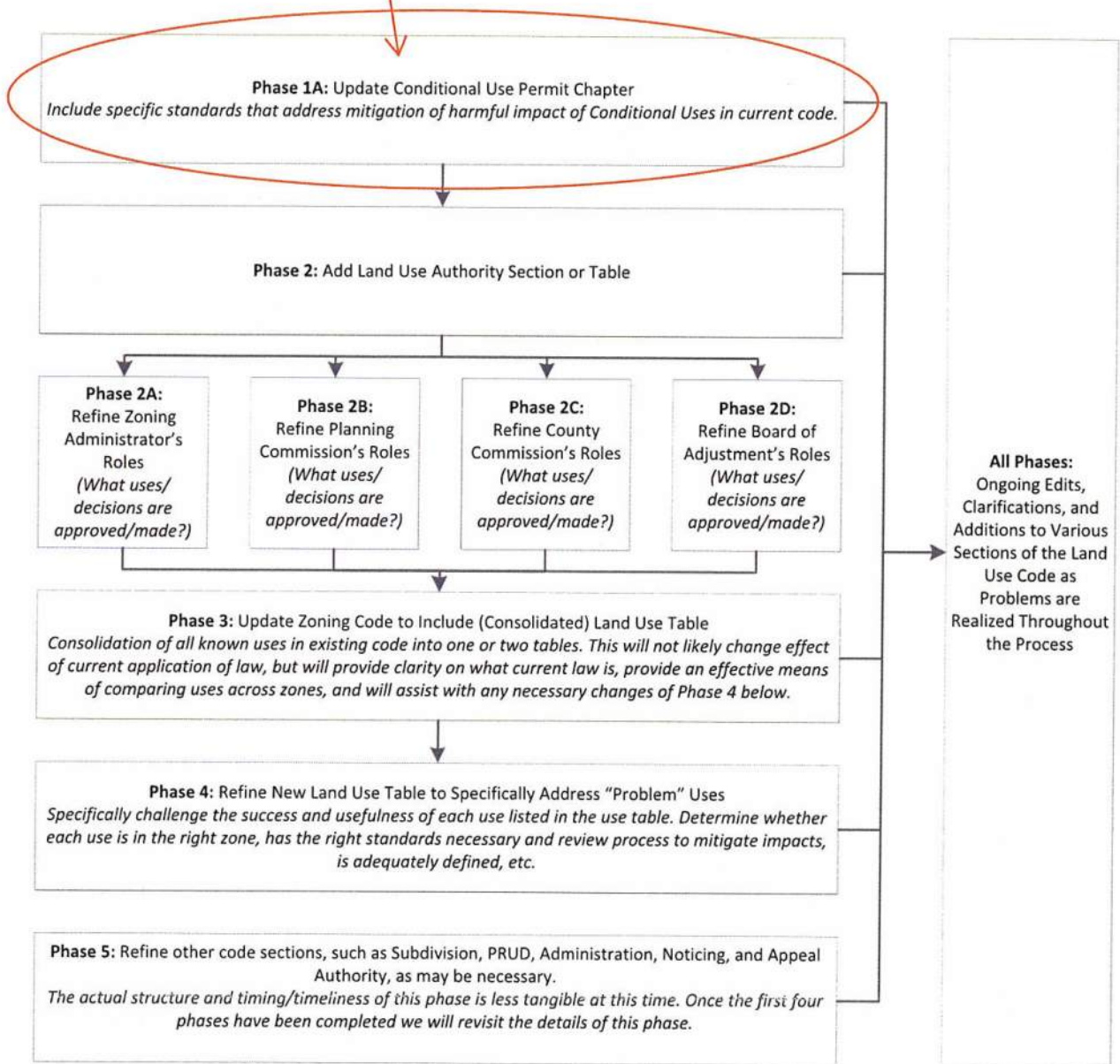
- (i) the harmony and compliance of the proposed use with the objectives and requirements of the City's General Plan and this Title;
- (ii) the suitability of the specific property for the proposed use;
- (iii) whether the proposed use or facility may be injurious to potential or existing development in the vicinity;
- (iv) the economic impact of the proposed facility or use on the surrounding area;
- (v) the aesthetic impact of the proposed facility or use on the surrounding area;
- (vi) the safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation;
- (vii) the safeguards provided or proposed to prevent noxious or offensive emissions such as noise, glare, dust, pollutants and odor from the proposed facility or use; and
- (viii) the impact of the proposed facility or use on the health, safety, and welfare of the City, the area, and persons owning or leasing property in the area.

(5) The Planning Commission may request additional information as may be reasonably needed to determine whether the requirements of this Subsection (e) can be met.

The proposed edits fall here

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.





Weber County Planning Division

To: Ogden Valley and Western Weber Planning Commissions
From: Charles Ewert, AICP
Date: December 31, 2014
Subject: Weber County Land Use Code Revision Process: Land Use Table

Background. Staff is focused on and dedicated to creating an efficient land use code that provides optimal protection to the health, safety, and welfare of the public, while also providing land owners consistency and predictability in decision making. To do so, I am currently working on creating a use table that will replace and more efficiently provide for the allowed uses (permitted uses and conditional uses) in their respective zones.

Analysis. I analyzed the current uses allowed in each zone and inserted them into a matrix. In some cases I was able to find similar uses and consolidate them. The matrix needs a lot of work before it is ready for public scrutiny, and is intended to be an internal working document only at this time. It is being transmitted with the meeting packet, but is not part of the packet. It is intended to display for the Planning Commission what uses are allowed in each zone and how they compare with other zones. I will explain some of the redlines and comments in our discussion.

In the future, we will work together to go through each use to determine the following:

1. How does the use function and what are the effects that need to be regulated?
2. Can similarly functioning uses be more efficiently consolidated?
3. How should we treat the uses that are specifically permitted in certain zones, but omitted from others? Should they be permitted, conditionally permitted, or prohibited in those other zones?
4. What form should the use take? This is where we will discuss design standards.

The comments attached to the matrix are synopsis of thoughts I had while reviewing the uses. Some of the thoughts may now be moot, but I wanted to provide the raw information to the Planning Commission in hopes that it will stimulate further discussion and education.

I look forward to our discussion.