



Staff Report to the Ogden Valley Planning Commission

Weber County Planning Division

Synopsis

Application Information

Application Request: ZMA2023-09: A public hearing to discuss and take action on an application to amend the Weber County Zoning Map, rezoning approximately 20 acres of land at approximately 5204 East, HWY 166, from the AV-3 Zone to the FB Zone.

Agenda Date: Tuesday, November 14, 2022

Applicant: Eden Crossing L.L.C.,
Representative: Brent Bateman, Dentons Durham Jones Pinegar P.C.

File Number: ZMA 2021-03

Property Information

Approximate Address: 5204 East, HWY 166, Unincorporated Eden Area

Current Zone(s): Agricultural Valley (AV-3) Zone

Proposed Zone(s): Form-Based (FB) Zone

Adjacent Land Use

North: Agriculture (Proposed Cobabe Subdivision)	South: Residential and Agriculture
East: Residential and Vacant	West: Residential and Agriculture

Staff Information

Report Presenter: Charlie Ewert
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Report Reviewer: RG

Applicable Ordinances

§Title 104 (Zones) Chapter 22 (Form Based Zone)

Legislative Decisions

When the Planning Commission is acting as a recommending body to the County Commission, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Legislative actions require that the Planning Commission give a recommendation to the County Commission. For this circumstance, criteria for recommendations in a legislative matter require a review for compatibility with the general plan and existing ordinances.

Summary and Background

This is an application for a rezone. The Planning Commission has held several work sessions and meetings to discuss the property in relation to amendments to the FB Zone's street regulating plan, but this is the first time the Planning Commission will be reviewing this requested rezone. A complete staff analysis of the proposal can be found herein.

Request for final decision – 45 days.

Under State law,¹ if a reasonable amount of time has lapsed since the submittal of an application the applicant may request a final decision be made within 45 days of the request for the decision. The County has received a request for final decision from this applicant. This request was received on October 28, 2023. This rezone application was initially received by the County on April 5, 2023 and the application fee was received April 20, 2023. At that time the applicant had another application also submitted, and requested that staff postpone review of this application until there was more clarity on the direction of the other application, as the two are related. In early October staff

¹ UCA 17-27a-509.5

were informed of the applicant's desire for staff to conduct its review of this application and submit it to the Planning Commission for review. On October 6, 2023, the staff informed the applicant that this application is incomplete and not ready for substantive review. On the same day the applicant submitted a complete application. Given this history, the County had 22 calendar days to review the application prior to receiving the request for final decision.

If a valid request, the final decision on this rezone from the County Commission must be given by December 12, 2023. Given the Planning Commission's calendared meetings, in order to meet this 45-day period the Planning Commission will only have one meeting in which it can consider this item, so the decision on November 14th cannot result in the item being tabled.

Policy Analysis

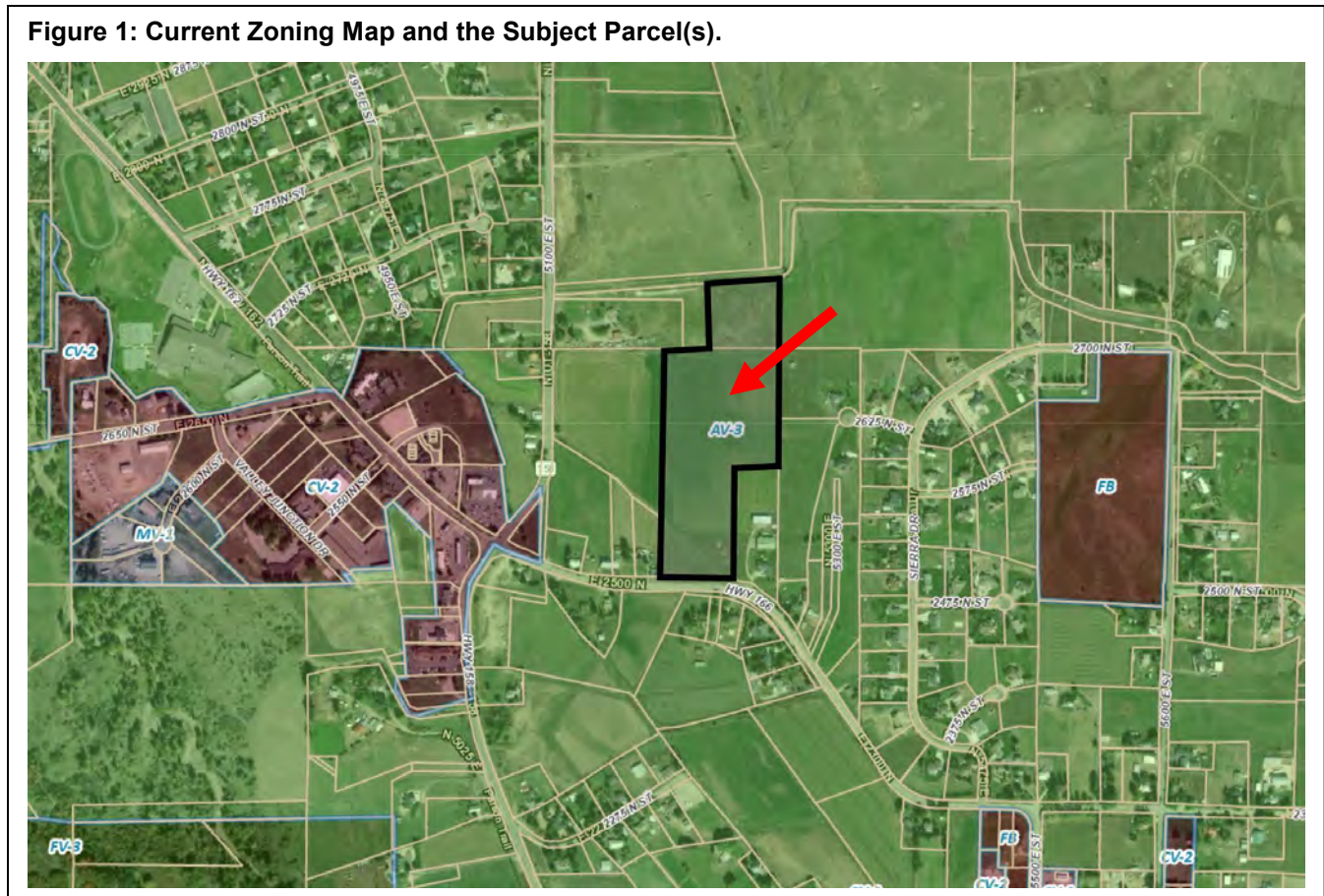
The Weber County Land Use Code has a chapter that governs application-driven rezones. The following is a policy analysis of the requested rezone based on the Land Use Code and best planning practices.

Zoning Analysis

The current zone of the subject property is AV-3. **Figure 1**² displays current zoning of the area of the subject property.

The purpose and intent of the AV-3 zone is:

*"Designate low-intensity farm areas, which are anticipated to develop in a rural residential development pattern; set up guidelines to continue agricultural pursuits, including the keeping of farm animals; and direct orderly low-density residential development in a continuing rural environment."*³



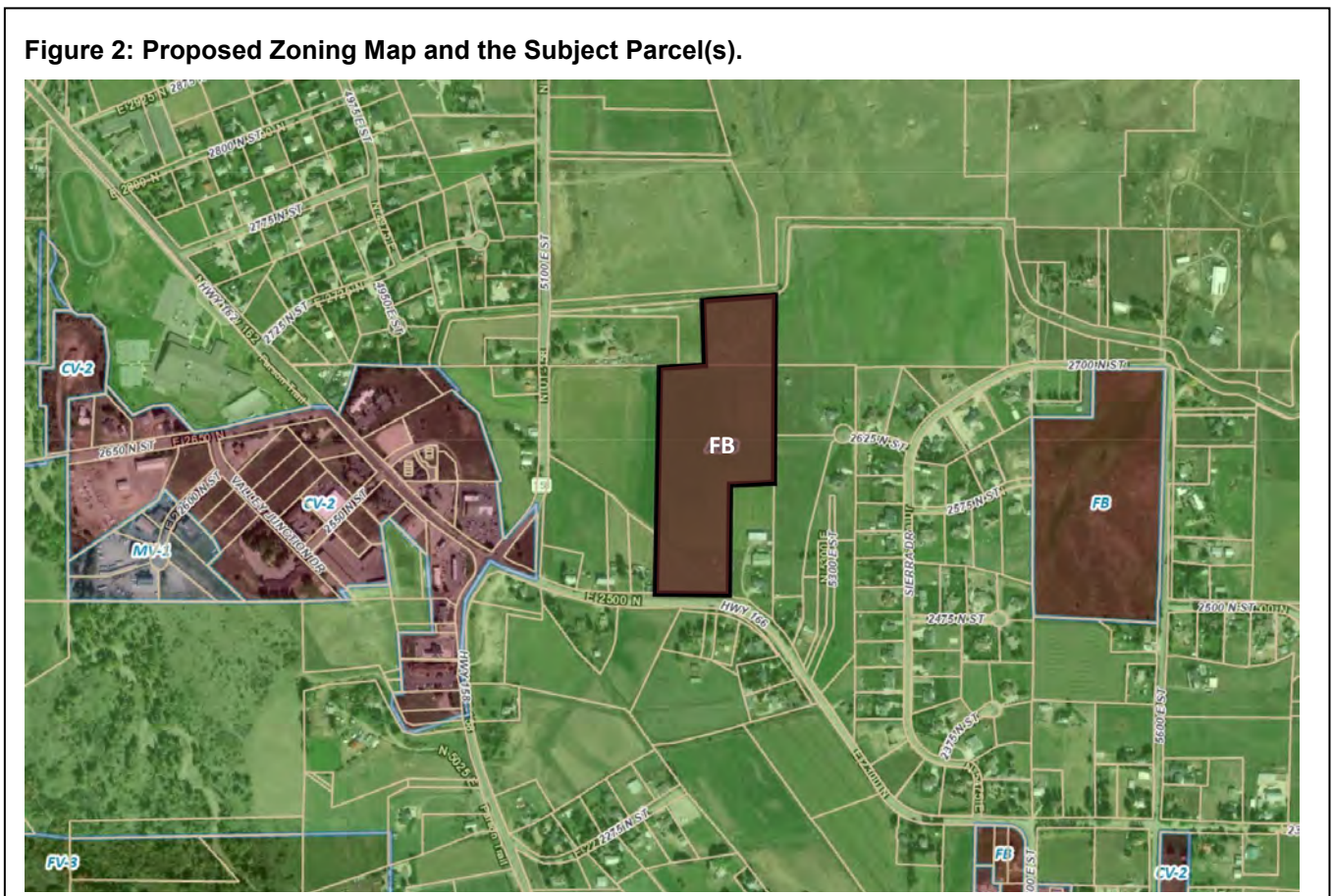
² See also [Exhibit B](#).

³ Weber County Code Section 104-2-1.

The proposed zone for the subject property is the Form-Based (FB) Zone. The purpose of the FB Zone is:

“to provide a form-based regulatory tool that focuses on the public street design and the buildings that frame the public street. This deemphasizes separation of land uses as is typically found elsewhere in this Land Use Code. Form-based regulations help enable a mixture of allowed uses, multimodal active transportation, and enhanced building design. Additionally [,] the Form-Based Zone regulations are intended to carry out the objectives of the 2016 Ogden Valley General Plan through the implementation of form-based small area zoning and transferable development rights. Each area affected by the Form-Based Zone shall be governed by a Street Regulating Plan. The purpose of the Street Regulating Plan is to address specific design and functionality of streets and building facades along these streets. The intent is to stimulate the creation of buildings and streets that frame the public rights-of-way with architectural and design elements that are unified under a common design theme whilst enabling unique building facades.”⁴

The proposed rezone can be viewed in **Figure 2**⁵.



The FB Zone is unlike other zones in the Land Use Code. It contains a variety of what could be viewed as “subzones” within it. These so-called “subzones” are identified by the specific street types and delineated in a street regulating plan. If the FB Zone is approved for the subject property, all of those uses and development types prescribed by the specific street type should be anticipated in a future development thereon.

⁴ Weber County Code Section 104-22-1.

⁵ See also Exhibit C.

Figure 3 shows current street regulating plan as it relates to the subject property. Additionally, the applicant has

Figure 3: Current Eden Area Street Regulating Plan



requested that the county amend the current street regulating plan as depicted in Figure 4. Amendment of the street regulating plan is currently within the purview of the County Commission. It is not clear at this time if the street regulating plan amendment will be approved, but if it is it appears at this time as if it will be amended as provided in Figure 5.⁶ For this reason, staff provide an analysis of this proposed rezone based on both the existing and the proposed street regulating plans.

As it relates to the subject property, the current street regulating plan shows the following street types:

Vehicle-oriented commercial street.

A vehicle-oriented commercial street or Alley has street-front buildings that are intended to serve the traveling public, such as a large grocery store, drive-through or drive-up window service of varying kinds, and gas station. Street-front buildings that are not vehicle oriented are also allowed as described for a Mixed-Use Commercial Street. Multi-family residential uses are allowed only if located above first-floor street-level commercial space.

Rural residential street.

A rural residential street has street-front single-family buildings that may be set back enough to create a sizeable front yard on a lot that is at least an acre large.

Estate lot residential street.

An estate lot residential street has street-front single-family buildings that may be set back enough to create a sizeable front yard on a lot that contains multiple acres..

⁶ See also Exhibit F.

General open space street.

A general open space street has very limited buildings adjacent to the street, and only those that are incidental and accessory to the open space.

Figure 4: Eden Area Street Regulating Plan being considered by County Commission.



As it relates to the subject property, the street regulating plan amendment currently under consideration by the County Commission shows the following street types:

Mixed-use commercial street.

A mixed-use commercial street has street-front buildings that are oriented toward pedestrian traffic. At the street-level, these buildings shall be exclusively used or reserved for commercial operations. Commercial and Multi-family residential uses are allowed above or behind first-floor street-level commercial space.

Multi-family residential street.

A multi-family residential street has street-front buildings that are used for multi-family dwellings, and are set back from the street enough to provide a stoop or door yard between the facade and the street's sidewalk. Where possible, given terrain, first-floor building space intended for residential uses shall be offset by half a story from the plane of the street's sidewalk. First-floor street-level commercial area is permitted, but not required. Commercial uses are not permitted above the first-floor street-level unless the first-floor street level is also occupied by a commercial space.

Small-lot residential street.

A small-lot residential street has street-front buildings that may be set back more than multi-family residential street facades, but are less likely to have a noticeable front yard area.

Weber County Code has six general decision criteria for determining whether a rezone is merited. They are as follows:

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

The following is an analysis of this proposal in the context of these criteria.

(a) Whether the proposed amendment is consistent with goals, objectives, and policies of the County's general plan.

As a legislative decision, a rezone should advance the goals of the general plan, or at the very least, not be detrimental to them without good cause. The general plan is only a guiding document and not mandatory to follow, however, because it sets the desired ultimate outcome for the community, deviation from it should be done with caution.

The community character vision of the general plan, the vision to which all other visions and goals are oriented, reads as follows:

"The rural character of Ogden Valley is defined by its open fields, agricultural lands, stands of trees, peace and quiet, dark skies, clean air and water, abundant wildlife, and small villages; by Pineview Reservoir; by historic Ogden Canyon and by the long views of the surrounding foothills and mountain background. The Ogden Valley community desires physical development to complement, not overwhelm or compete with, the rural character of the Valley. In the Ogden Valley planning area, Weber County will promote and encourage unique and functional design in new developments, public spaces, and streetscapes to create a visible character distinct to Ogden Valley that enhances the Valley's character."⁷

The vision is the filter through which all interpretation and understanding of the plan should be run. This will help reduce the appearance of inconsistencies within the plan by showing that more than one thing can be true at the same time.

There are a number of specific principles and implementation strategies within the entire plan that, when taken individually, appear to conflict with each other. However, when combined through the lens of this vision it can be understood that even most of the diverging interests can pull together to provide for this vision.

To be direct, the plan calls for the valley to be rural, but then guides the creation of commercial villages. Some have questioned how the valley can remain "rural" if there are small urbanized villages within it.

The inclusion of villages in the plan despite them not being definable as rural was deliberate, as further explained in this report.

The Problem.

In whole, the plan was designed to specifically avoid the outcome to which the current "rural" AV-3 zone is leading. If the current AV-3 zone, which requires a minimum lot size of three acres, and a minimum lot width of 150 feet, is allowed to develop at its highest and best use to full buildout, it will result in a future in which single-family residences line the remaining unbuilt land along existing and future new streets, each being about 150 feet apart. This large-lot suburban development pattern is not the "rural" that the general plan envisions preserving.

⁷ Ogden Valley General Plan (p. 4)

This pattern of development will replace the existing “open fields, agricultural lands,” natural spaces, and wildlife habitat with large back yards, many of which will be fenced if not manicured and few of which will be large enough to support agricultural uses. Throughout the valley, large-lot suburban development is likely to also disrupt and possibly obscure the “long views of the surrounding foothills and mountain background” that current residents enjoy. In this eventual AV-3 future, the Ogden Valley is very likely to become merely another large-lot suburb of Ogden, with most, if not all of its current character and charm stripped.

Preventing this eventuality under the AV-3 zone is the primary cornerstone of the plan. The plan was written to specifically drive a shift in the valley’s future away from the AV-3 zone’s outcome and toward an outcome that still has a future that includes these greater characteristics for all to enjoy.

A more complete presentation of the effect of the 3-acre zone can be found here: <https://www.webercountyutah.gov/planning/documents/2023-public-open-house-general-plan-review-and-current-trends.pdf>

Under the valley’s existing predominantly 3-acre zoning, more than 12,500 dwelling units can be expected on the floor of the Ogden Valley. Figure 5 depicts the Ogden Valley floor area. This number does not include another approximately 4700 dwelling units for the development plans of both Snowbasin and Powder Mountain. The Ogden Valley currently has approximately 4,000 existing dwelling units. Figure 6 depicts the locations of existing buildings. Figure 7 depicts the location of approved dwelling units that are not yet constructed. Figure 8 presents a general location of the remaining approximately 6,000 dwelling unit rights that are allowed by existing zoning but not yet platted or approved.

In other words, an additional approximately 8500 dwelling units are allowed to be constructed following the rules of existing zoning. When a proposed development follows the existing development rules adopted by Weber County, the decision is an administrative decision and as such the county has no choice but to approve the development permits. This means these 8500 or so dwelling units are, in effect, entitled to come to fruition at some point in the future. The county may, however, influence where they go to help avoid the outcome of suburban sprawl. That is precisely what the plan is designed to do. The plan states that:

Figure 5: Ogden Valley Floor Area.



“The presence of support services, in turn, makes these areas more attractive and more suitable for additional residential development. This pattern will likely continue without specific directives otherwise; thus, the goals, principles, and implementation of this General Plan are designed to provide voluntary measures for shifting motivation away from developing sensitive lands and prime agricultural or open-space lands... While broad mandatory downzoning is not supported [by the Ogden Valley public], voluntary methods to reduce overall development units, particularly in sensitive areas and prime open-space or agricultural areas, could mitigate overall development impacts.”⁸

⁸ Ogden Valley General Plan (p. 12)

Figure 6: Existing Buildings.

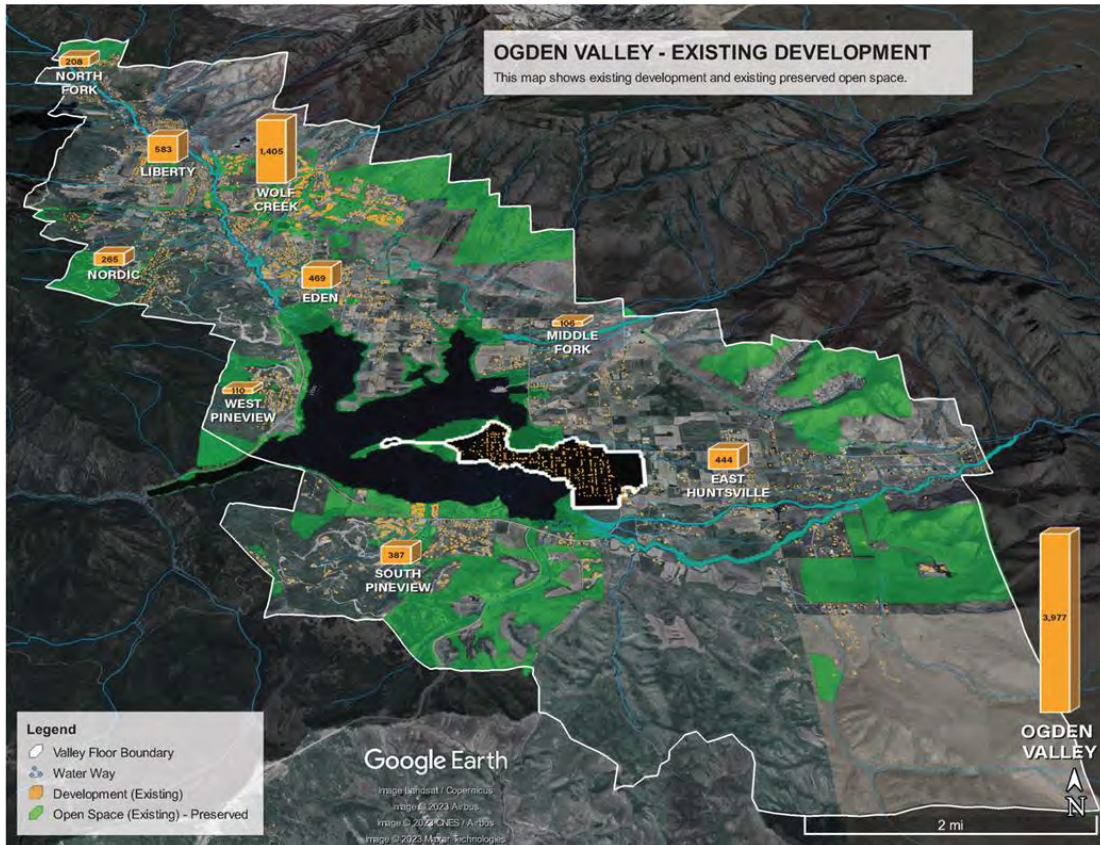


Figure 7: Approved Dwelling Units Not Yet Constructed.

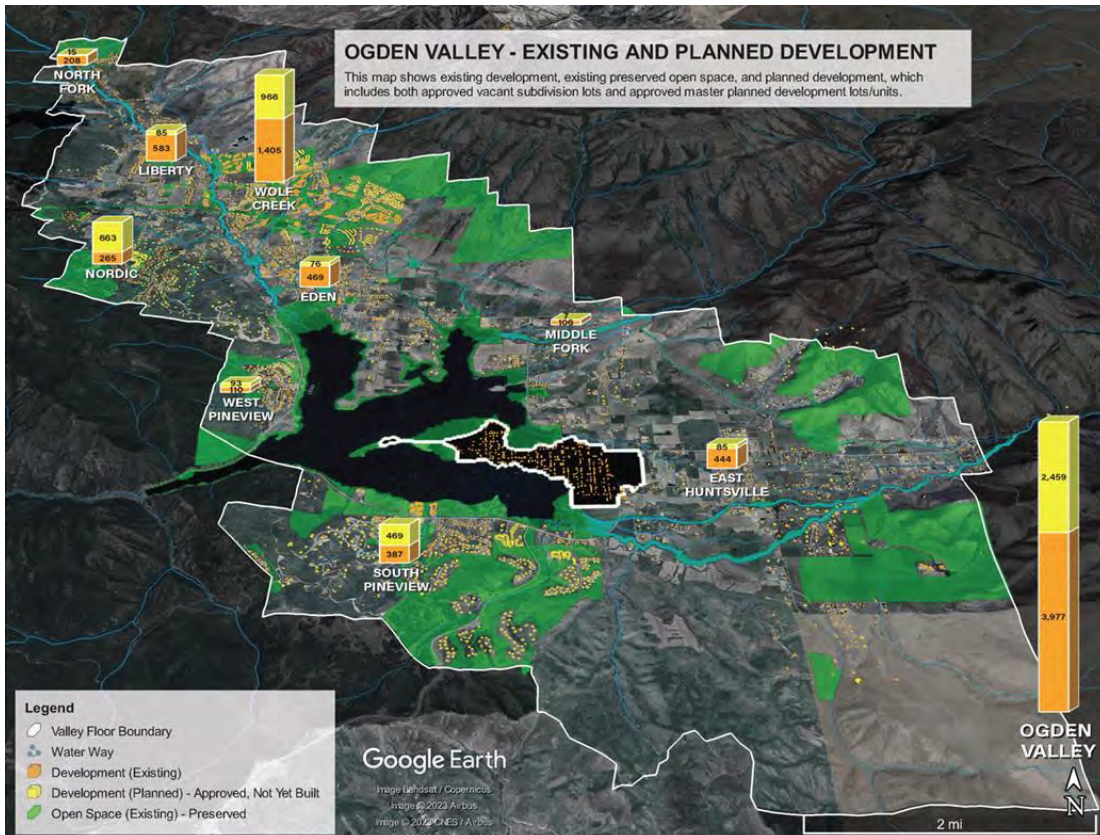
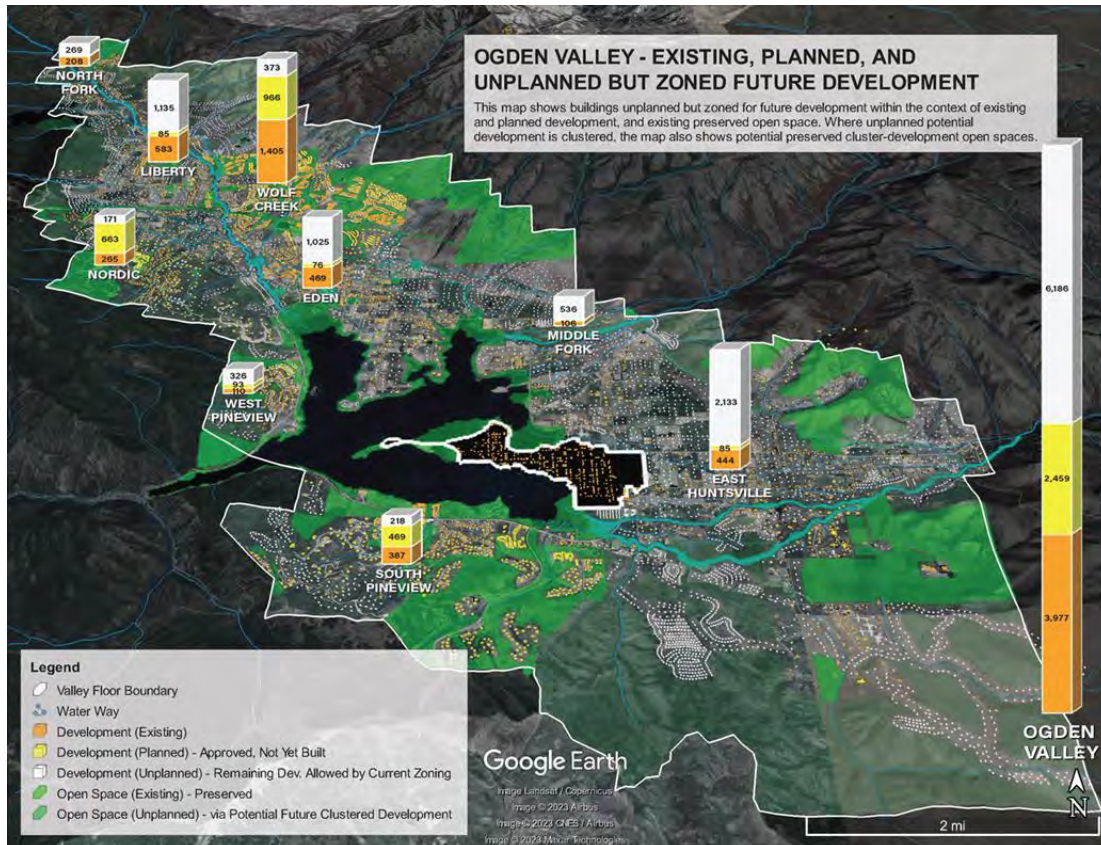


Figure 8: Remaining Dwelling Units Allowed by Current Zoning.



The General Plan's Solution.

To help the Ogden Valley not result in large-lot suburban sprawl, the plan recommends that the county use its development regulating powers to influence residential development rights in a manner that removes them from the lands on which they are currently entitled, and moves them into more urbanized growth centers. The plan prescribes eight of these growth centers, and calls them “villages.” The plan further prescribes additional growth to occur adjacent to the village areas where development infrastructure exists or can exist more easily and efficiently given economies of scale of the densities therein. Further, the plan suggests that these growth areas should be designed in a manner to “complement, not overwhelm or compete with, the rural character of the Valley.”⁹

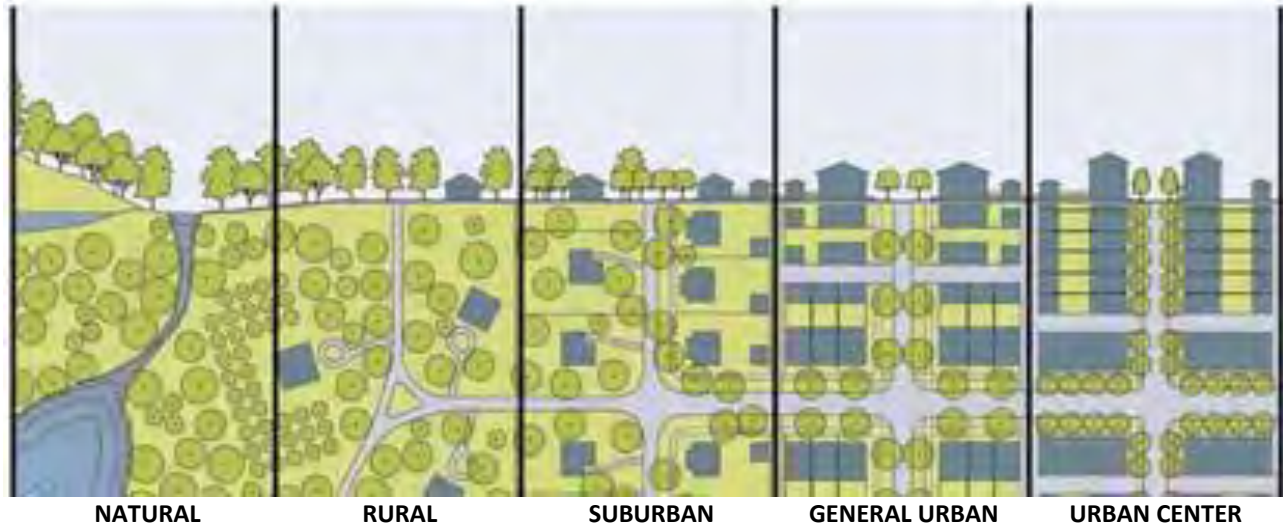
The plan is not entirely clear on how exactly to accomplish “small villages” that do not compete with adjoining rural areas. However, in 2022 the County Commission adopted the Form-Based village zone which is, in part, a zone intended to help shape the design of these growth areas in a manner that transitions density from very heavy in the centers of these growth areas, to rural at the edges/periphery of them. This type of transitional development pattern is called “transects.” Figure 9 provides a general example of transects. The Form-Based Zone is intended to provide for these transects.

If the FB zone is approved for the subject property, the applicant will be allowed to start creating what the above graphic depicts as the “urban center.” This is true regardless of how the Commission votes on the proposed street regulating plan amendments, as the current street regulating plan already depicts vehicle-oriented commercial for a part of the applicant’s frontage.

⁹ See Community Character Vision, 2016 Ogden Valley General Plan, (p.4).

Staff is aware of public comments questioning the wisdom of enabling an urban center adjacent to existing single-family residential and agrarian land uses. While this concern is valid and worth noting, if an urban center is to be initiated, there are few locations in the valley at this time where it can be initiated without being in close proximity to single-family residential and rural land uses. If growth centers are going to start, they must start somewhere. In time, the street regulating plan of the FB zone is designed to provide these transitions as neighboring property owners decide to change their own land uses into conformance with the FB zone.

Figure 9: Transect Development



Additional Detailed General Plan Analysis.

The foregoing notwithstanding, it is important to not only review this rezone proposal in accordance with the overall context of the purpose of the plan, but also within the context of the details of the plan. The following provides an analysis of relevant parts of the general plan as it relates to this rezone. It can be observed herein that this proposed rezone both complements and contradicts various provisions in the plan. There is no requirement for a proposal to meet the absolute details of the general plan. This stands especially true when it's a plan that contains as many diverging interests as the Ogden Valley General Plan. If the County decides to approve an application that in some part runs contrary to the details of the plan, the County should do so with full understanding of the outcome(s) and have solid reasoning as to how the approval supports the overall intended effect(s) of the plan.

Pros:

Gateways and Viewsheds Goal 3: *A goal of Weber County is to protect key viewsheds throughout the Valley.*

Gateways and Viewsheds Principle 3.1: *Protect viewsheds throughout the Valley including views of the mountains and Pineview Reservoir.*

Gateways and Viewsheds Principle 3.2: *Avoid visually prominent structures, hillside cuts, and vegetation removal that alter the visual quality of the Valley's viewsheds. Ensure that all development minimizes site disturbance and lot coverage and requires effective site restoration, revegetation, and weed control.*

Development within the FB zone is required to follow the adopted transferable development rights regulations. While we do not know at this time the properties from where the applicant's density will come, we do know that they can only come from areas within the valley floor area. Thus, it can be found that this project could help remove potential development from visually prominent areas and move them into the growth center of Eden.

Clean Air and Water Goal 1: *A goal of Weber County is to protect the Valley's air and water quality. (See Residential Development Goal 3)*

Clean Air and Water Principle 1.1: *Promote energy-efficient & sustainable development practices to improve and protect air and water quality.*

Gateways and Viewsheds Implementation 1.1.1: incorporate air and water quality protection considerations in the development review and approval process.

Clustering development into smaller areas, such as centrally located growth centers is a sustainable development practice. Sprawling development requires greater vehicle miles traveled, which leads to greater emissions, which contributes to less healthy local air quality. Additionally, the applicant's development will require a sewer system. Given the transferred density, this will likely result in the reduction of individual septic systems on which sprawling development patterns rely.

Land Use Goal 1: A goal of Weber County is to reduce the overall amount and impact of future land development in the Ogden Valley planning area.

Land Use Principle 1.1: in general, additional density should not be authorized in the Ogden Valley planning area above that allowed by current zoning. Minimal density bonuses (the exact amount to be determined by ordinance, master plan, development agreement, etc.) should only be allowed when they are granted to incentivize significant contribution to the advancement of the goals and principles found in this plan.

Land Use Implementation 1.1.1: Weber County will support the transfer of existing development rights (TDRs) as the primary means to increase densities in suitable project areas while proportionately decreasing density in other areas. incentives – such as reduced road cross sections and other cost-saving measures for master-planned developments – should be proposed to reduce development intensities and as the primary means to incentivize the purchase and transfer of development rights. Bonus density should be used sparingly, and only in the event minimal bonuses can be leveraged for significant and meaningful advancement of the goals and principles of this plan. Development rights include residential (e.g. townhouses, single family detached units, etc.) and non-residential development rights (e.g. hotel units, accessory dwelling units, retirement center units, etc.).

The applicant is not requesting bonus density at this time and is only pursuing the right to transfer development rights as anticipated by Implementation 1.1.1. At this time the only transferable development rights available are residential development rights.

Land Use Principle 1.4: Employ mechanisms such as TDRs to reallocate existing authorized development units from less suitable to more suitable locations.

Land Use Implementation 1.4.3: Foster the creation of a TDR market by exploring ways for developers to benefit from purchasing TDRs. [...]

This implementation strategy provides an important clue to the puzzle regarding how we should help ensure the default provisions of the AV-3 zone do not ruin the valley's current character. The County should be finding ways to support a TDR open market and ways to help developers benefit from it. This cannot be initiated in the Ogden Valley unless sufficient area is zoned to the FB zone so that TDRs can start trading. The more opportunities the County creates for trades to occur, the higher the likelihood a free market will be established.

Land Use Principle 1.5: Encourage new development to locate in areas where water and sewer service could be provided by a sewer system. Encourage residential cluster developments with smaller building lots and larger areas of open space for most subdivisions.

Directing growth into areas with sewer is imperative to the preservation of the current character of the Ogden Valley, as the proliferation of individual septic systems has been affecting ground water quality for some time now. Clustering transferred growth into sewer areas will help avoid sprawled growth in areas without, thereby either avoiding further harm to groundwater sources or expensive sewer line expansions that accommodate the sprawl.

Rural Residential Development and Housing Vision: *The Ogden Valley community desires a variety of housing types to meet the needs of a diverse population of various income levels, ages and stages of life. Neighborhoods should have convenient access to community amenities and be designed in a manner that protects the valley's character. Residential development should be centered around villages and town centers and designed to provide open spaces and efficient uses of the land.*

The general plan has a "Rural Residential Development and Housing" chapter. The above paragraph is the vision for housing in the Ogden Valley. The application of all other provisions for housing within the plan should be run through the filter of this vision.

If applied literally and in totality, residential uses in the Ogden Valley should *only* be allowed when it is centered around the villages and town centers. However, because other provisions of this plan encourages voluntary TDR, PDR, and similar measures, we know this part of the vision is not intended to be applied literally, however, the strong encouragement should be noted in the County's decision making. The applicant's proposal does well to provide residential density adjacent to the New Town Eden village center and, if other landowners in the area follow suit, will result in housing centered around villages.

Residential Development Goal 1: *A goal of Weber County is to provide housing choices in neighborhoods that will allow residents with a variety of incomes and at different stages of life to live in Ogden Valley.*

Residential Development Principle 1.1: *Encourage residential development projects to incorporate a mix of housing sizes, types, and prices.*

A common misunderstanding about the FB zone is that its purpose is only to create commercial village areas. This is not accurate. Its purpose is to create village areas that are surrounded by residential development of various types.

Planning Commissioners and members of the public alike have expressed concerns about using the FB zone too far from village centers out of fear of creating village sprawl. However, the FB zone is designed to do exactly what is specified in the vision of the Rural Residential Development and Housing.

With TDRs, the goal is to keep the rural areas rural by creating growth areas that provide a variety of housing types.

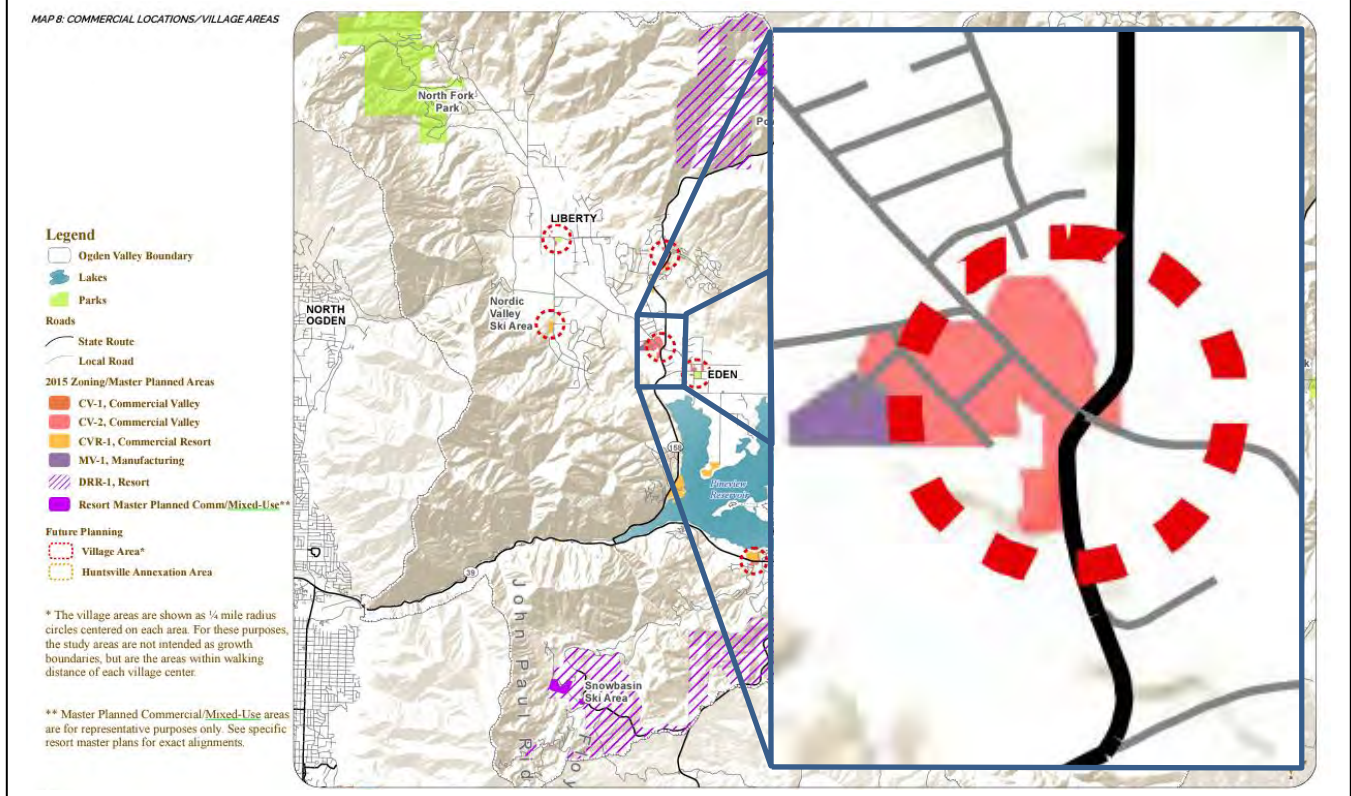
The applicant's proposal will provide a variety of housing options and sizes for current and future residents. The FB zone's existing workforce housing requirement will help provide for various levels of affordability as well.

If adopted, the proposed street regulating plan will allow multifamily stacked housing, townhomes, and single-family residential on various sizes of small lots. While market forces are unlikely to provide for affordable housing without government intervention, the reduced lot sizes will help provide housing that is more affordable than their 3-acre lot counterparts.

Commercial Development Vision: *The Ogden Valley community desires sustainable and thriving local businesses in Ogden Valley. Ogden Valley capitalizes on recreational tourism to support its economic base. New commercial development should be focused in and near existing commercial areas and resorts. New commercial development should be designed to be compatible with the rural character of Ogden Valley.*

The Commercial Development chapter provides the above vision. All other commercial provisions within the plan should be interpreted through the filter of this vision. Figure 10 provides the general plan's map of commercial locations and village areas. This map illustrates with a red dashed line the center of a village area. The red-dashed line is not the boundary of the proposed village area, as seems to be commonly misunderstood. Both the text of the plan and this map explain otherwise. Each circle is a ¼ mile radius, representing typical desirable walking distances, and is intended to be centered on the village center, although some appear to be off center on the map. The village center of the New Town Eden area is intended to be the intersection of HWY 158 and 2500 N. Street. Figure 11 illustrates this circle in relation to the applicant's property.

Figure 10: Ogden Valley General Plan Map 8, Commercial Locations and Villages



Commercial Development Goal 1: A goal of Weber County is to ensure that the location of retail and commercial development is consistent with Ogden Valley’s rural character.

Commercial Development Principle 1.1: Limit all new commercial development in the Ogden Valley planning area to Huntsville, the resort areas, and the village areas, as shown on Map 8. Avoid scattered and strip commercial and retail development patterns in the Valley.

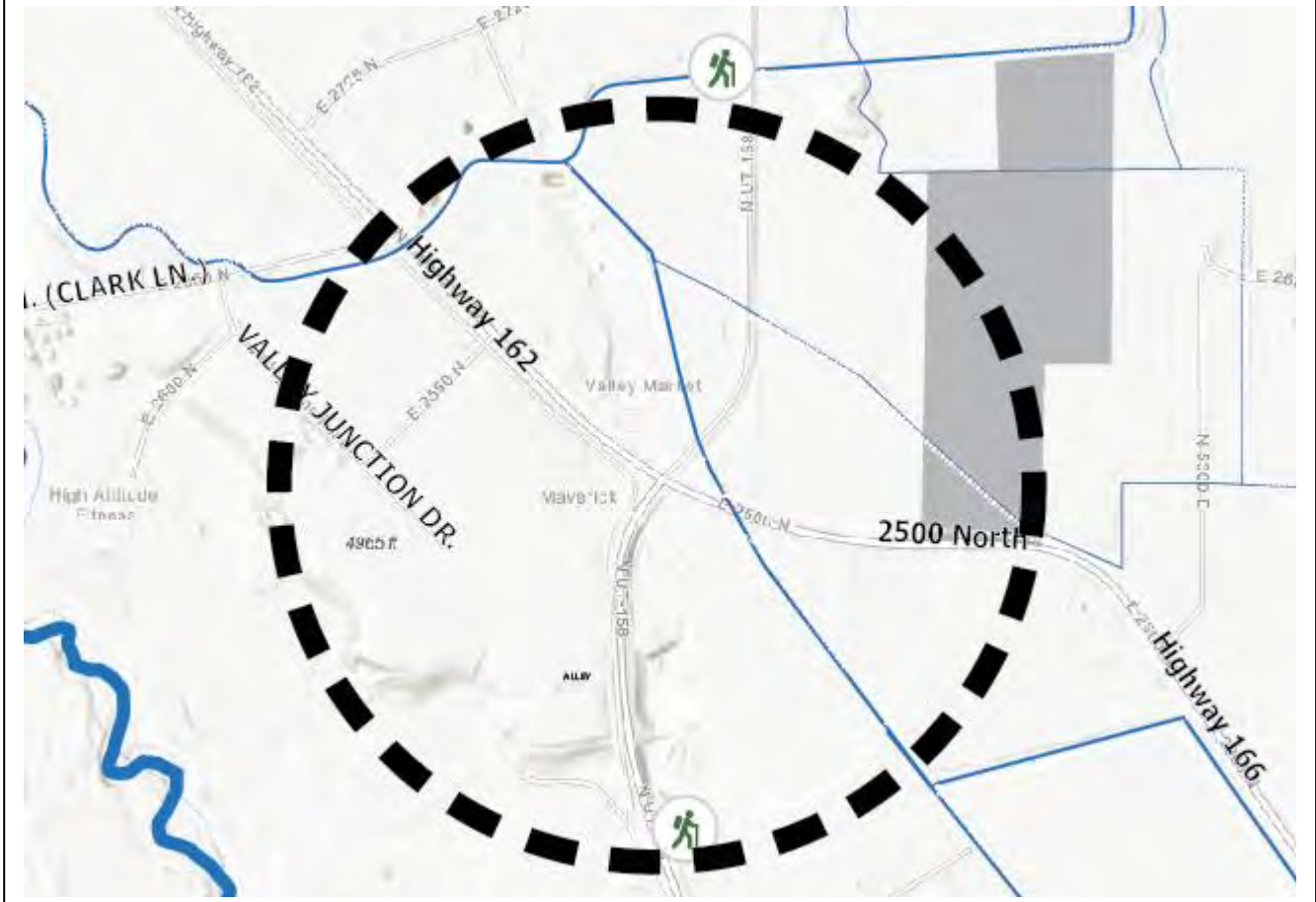
The above goal and principle further illustrate how the plan tries to balance rural areas versus village areas, and is further evidence of the overall intent of the plan.

Commercial Development Implementation 1.1.1: Prepare small area plans for each area designated as a village on Map 8 to describe their form and function (possible examples: highway oriented, mixed-use, resort, small neighborhood commercial, etc.). Small area plans should identify defining attributes and appropriate design standards, identify future potential adjacent expansion areas, and plan for multimodal and active transportation to and within each area, as may be appropriate. The village areas are shown as ¼ mile radius circles centered on each area on Map 8. For these purposes, the study areas are not intended as growth boundaries, but are the areas within walking distance of each village center.

Breaking this implementation strategy into parts, the Planning Commission can find the following:

Prepare small area plans for each area designated as a village on Map 8 to describe their form and function (possible examples: highway oriented, mixed-use, resort, small neighborhood commercial, etc.).

Figure 11: Quarter-Mile Radius Walking Distance (Black Circle) of New Town Eden Village Center in Relation to Applicant's Property



The preparation of small area plans was accomplished for Old Town, New Town, and Nordic Valley areas through the FB code's street regulating plans. In order to realize these plans, all areas depicted in one of the street regulating plans should be rezoned to the FB zone (in time). The FB zone uses the plan-recommended highway oriented (FB zone calls this vehicle oriented), mixed-use (FB zone calls this mixed-use commercial). The small neighborhood commercial can also be accomplished through the mixed use commercial FB zone designation.

Small area plans should identify defining attributes and appropriate design standards...

The FB zone provides for the design standards of all three area to which a street regulating plan has been adopted (Old Town, New Town, and Nordic Valley). Each provide their own unique design theme.

...identify future potential adjacent expansion areas...

The FB zone not only provides for the existing commercial zones in each area, it goes further to identify where and how those commercial areas might expand. Further, in compliance with this provision, the street regulating plans go beyond the limits of commercial expansion to provide for the aforementioned new residential uses "...centered around villages and town centers..."

... and plan for multimodal and active transportation to and within each area, as may be appropriate.

The FB zone requires new development to provide for multiple transportation modes, including vehicle, bicycle, and pedestrian. At a later time when demand warrants it, amendments to the street standards should be expected to provide for transit facilities as well.

Commercial Development Implementation 1.1.2: *Require new commercial or mixed-use development to locate on property currently zoned for commercial uses. Avoid rezoning new property to commercial or manufacturing until such time that the community supports it. Future commercial or mixed-use rezoning should only be considered adjacent to existing commercial or mixed-use zoning in a manner that creates village clusters and avoids strip commercial along highway corridors.*

The proposed rezone fails to meet this implementation strategy of the plan, at least in part of not in full. The nearest commercially zoned property is about 700 feet away from the subject property. In an ideal world this FB rezone proposal would be in an area already zoned commercial as recommended by this implementation strategy. It would be hard to define the proposal as "strip commercial," as advised against by this strategy, the proposal is a little removed from property currently zoned for commercial uses.

Commercial Development Principle 1.2: *Focus on creating vibrant village areas. Encourage public spaces and plazas within villages that can accommodate cultural and social events and that can function as community gathering areas. Promote and extend the walkable, interconnected pattern in the Valley and extend non-motorized trails and pathways to commercial village areas.*

This rezone is likely to lead to the creation of a vibrant village area to which other landowners in the area can connect. Creating gather public gather spaces in village areas requires the initiation of the village.

Utilities and Public Services Goal 2: *A goal of Weber County is to encourage alternatives to septic drainfield systems.*

Utilities and Public Services Principle 2.1: *New developments in the village areas (reference Commercial Development Implementation 1.1.1) and the resort areas should connect to existing sewer facilities or provide limited-capacity sewage treatment facilities for identified service areas. The facilities should be designed to be expandable to accommodate additional development in the village or resort areas. New residential developments not proximate to existing sewer service areas should employ clustering and provide limited capacity advanced sewage treatment facilities.*

The proposed rezone will lend to the advent of sewer to the New Town Eden area. One of the reasons commercial development is lagging in the Eden area is lack of sewer availability. The cost to extend sewer to the area is too high to rest on any one landowner. The cost of a commercial-use septic system and the reservation of valuable land for a drainfield is likewise fairly cost prohibitive. This applicant has sufficient land and only one land owner as well as a number of other developments in the area, rendering an economy of scale that makes the extension of sewer to this area feasible. If sewer is extended to the area by the applicant, all of the various fragmented landowners in New Town Eden are far less cost-burdened to extend sewer to their own properties. In other words this applicant has the ability to stimulate other commercial and mixed use development in the New Town Eden Area. This, in turn, will help foster a more realistic TDR market which will result in a more realistic ability to start moving development rights from the areas of the valley less desirable for development.

(b) Whether the proposed amendment is compatible with the overall character of existing development in the vicinity of the subject property, and if not, consideration of the specific incompatibilities within the context of the general plan.

The rezone will lend to a development that has a different character than the surrounding large-lot residential and agricultural land use. As previously provided in this staff report, the question of compatibility should be view through the lens of the general plan rather than what is existing now. The plan directs the future of the area. What can be observed in Figure 11 is a great deal of the applicant's property is in the "1/4 mile walking distance" circle depicted on the commercial locations and village areas map of the plan. The plan also directs residential uses to be located on the perimeter of the village areas. Thus, it should be anticipated that at some point in time the applicant's desired use should be considered for the property. Whether now is the right time is for the Planning Commission to determine in their formulation of a recommendation to the County Commission.

(c) The extent to which the proposed amendment may adversely affect adjacent property.

When considering how this rezone might adversely affect adjacent property, there are a wide array of factors at play. These include impacts on private property rights and nuisances, as well as other factors such as impacts on a landowner's desires for their neighborhood and the intrinsic values they've imbued into that neighborhood.

First and foremost, the Planning Commission should prioritize fact-based adverse impacts. Then consider the perception-based impacts.

If rezoned, the development that the FB zone will allow (assuming if the County Commission acts on the proposed street regulating plan) is likely to significantly change the immediate area. Existing streets will need to be upgraded and new streets will be constructed. Commercial and multifamily buildings can be expected, as well as small-lot residential uses, condos, and townhomes. Each of these uses will change the visual nature of the area, traffic volumes and patterns, and noise potential. The potential uses are not expected to be greater than a typical small urbanized area. When developing, the applicant will be responsible for correcting any material degradation in services that the development might create for the area. Thus, other than potential noise nuisances, most of the fact-based effects will be required to be mitigated by the applicant.

When developments of this nature are located in similar areas, the property values of surrounding land usually increases. The increase may lead to a greater property tax burden, especially for those on fixed incomes, if any.

Current neighbors who have grown accustomed to the quiet rural nature of the immediate area may find the increase in intensity of uses unpleasant and contrary to the current reason they reside in the area. Even though residents in the area do not own a property right to ensure their neighborhood will not change, their desire for the future of their area might be upended by the proposal. This could result in their eventual self-determined displacement from the neighborhood.

If evaluation of detrimental effects is extended beyond adjacent property, it could be determined that the commercial development potential of this proposal may undercut the commercial development potential of other properties in the area already zoned for commercial. This is a challenging distinction to make, however, as the financial benefit the proposal will bring to those other land owners by way of sewer service might overwhelm the adverse economic effects. Sewer service will increase other land owner's opportunities to create a mixed use development in accordance with the FB zone.

(d) The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, stormwater drainage systems, water supplies, wastewater, and refuse collection.

The County's currently adopted development regulations, as well as the standards of the FB zone, are designed to specifically require the developer to address their impact of local levels of service. As aforementioned, the applicant will be responsible for mitigating any material degradation of level of service of each of these services.

Roadways/Traffic.

Traffic mitigation studies will be required when the property subdivides. The applicant will be responsible for providing the street cross sections adopted in the FB zone, which are intended to provide for adequate traffic mitigation. However, the traffic studies will assist us in verifying this.

Parks and Recreation Facilities

The applicant has not provided specific park and recreation facilities plans. The FB zone requires bike, trail, and sidewalk facilities throughout the development which will be installed as the development is installed. During development of the project the applicant should work with the Ogden Valley Parks District to verify adequacy of services.

Police and Fire Protection

Because the FB rezone is not anticipated to increase the overall density of the valley, police protection might be a zero-sum gain. Special events within the project, if any, will be required to obtain special event permits. Same with conditional uses. Both special events permits and conditional use permits enable coordination with the Sheriff's office to provide deputy resources, when needed.

The Weber Fire District has reviewed the rezone application. They will require sufficient fire suppression at the time of development.

Stormwater Drainage Systems

It should be anticipated that this rezone will yield significantly more stormwater management demand given the amount of hard surface likely to occur. Stormwater management will be addressed with the applicant as development applications are submitted.

Water Supply

The project is within the culinary water service area of Eden Water Works. The applicant is proposing to create a new secondary water company called "Eden Crossing Public Works Company for secondary water services.

As required by the County's adopted water concurrency ordinance, the developer will be required to prove access to water as part of a specific development application.

Wastewater

The applicant has indicated that the project will be connected to Wolf Creek Water and Sewer Improvement District's sewer service. This may not be a final plan as of the writing of this report, but if it is or becomes such, the applicant will provide a sewer lift station to lift effluent up to the Wolf Creek sewer reclamation facilities. Sewer service lines are shown in the applicant's proposed narrative (Exhibit A).

The applicant will be required to provide proof of sewer service and adequacy at the time of development review.

Refuse Collection

Refuse collection has not been specifically addressed for this rezone. However, identifying garbage services is a typical requirement of design review at the time a development is proposed and is not typically addressed during rezone.

(e) Whether the proposed rezone can be developed in a manner that will not substantially degrade natural/ecological resources or sensitive lands.

Staff is unaware of specific natural or ecological resources or sensitive lands on the subject property.

(f) Whether proposed traffic mitigation plans will prevent transportation corridors from diminishing below an acceptable level of service.

As specified above, the applicant will be required to address traffic mitigation at the time a development application is submitted.

Staff Recommendation

After reviewing the proposal within the intended context of the Ogden Valley General Plan, it is staff's opinion that this rezone will substantially advance the vision and goals of the general plan. Staff is recommending approval of the rezone. This recommendation is given to the Planning Commission with the following findings:

1. The proposal substantially advances the vision, goals, and objectives of the Ogden Valley General Plan.
2. Considering the direct context of the plan, the benefits that the proposal offers to the execution of the plan and to the long-term desirable community outcomes as specified in the plan overwhelm the proposal's conflict with Commercial Development Implementation Strategy 1.1.2.
3. The proposal will bring sewer to the Eden area, thereby creating further village and TDR opportunities for other landowners in the surrounding area in the future, further compounding the benefits of the proposal to the intended effects of the general plan.
4. The TDRs anticipated to be consumed by the a development within the proposed rezone, or the TDRs that might be consumed by other properties in the area will help remove development rights from the remaining areas in the community that are intended to remain rural.
5. The project is beneficial to the overall health, safety, and welfare of the community, as provided in detail in the Ogden Valley General Plan.

Model Motion

The model motions herein are only intended to help the planning commissioners provide clear and decisive motions for the record. Any specifics provided here are completely optional and voluntary. Some specifics, the inclusion of which may or may not be desired by the motioner, are listed to help the planning commission recall previous points

of discussion that may help formulate a clear motion. Their inclusion here, or any omission of other previous points of discussion, are not intended to be interpreted as steering the final decision.

Motion for positive recommendation as-is:

I move we forward a positive recommendation to the County Commission for File #ZMA2023-09, an application to amend the Weber County Zoning Map, rezoning approximately 20 acres of land at approximately 5204 East, HWY 166, from the AV-3 Zone to the FB Zone, as provided in Exhibit C.

I do so with the following findings:

Example findings:

1. *The changes are supported by the Western Weber General Plan.*
2. *The proposal serves as an instrument to further implement the vision, goals, and principles of the Western Weber General Plan*
3. *The changes will enhance the general health and welfare of Western Weber residents.*
4. *[_____ add any other desired findings here _____].*

Motion for positive recommendation with changes:

I move we forward a positive recommendation to the County Commission for File #ZMA2023-09, an application to amend the Weber County Zoning Map, rezoning approximately 20 acres of land at approximately 5204 East, HWY 166, from the AV-3 Zone to the FB Zone, as provided in Exhibit C, **but with the following additional edits and corrections:**

Example of ways to format a motion with changes:

1. *Example: In Section 104-12-3(f), remove short-term rentals as a permitted use.*
2. *Example: On line number [____], it should read: [_____ desired edits here _____].*
3. *Etc.*

I do so with the following findings:

Example findings:

1. *The changes are supported by the Western Weber General Plan.*
2. *The proposal serves as an instrument to further implement the vision, goals, and principles of the Western Weber General Plan*
3. *The changes will enhance the general health, safety, and welfare of Western Weber residents.*
4. *[Example: allowing short-term rentals runs contrary to providing affordable long-term rental opportunities]*
5. *Etc.*

Motion to recommend denial:

I move we forward a recommendation for **denial** to the County Commission for File #ZMA2023-09, an application to amend the Weber County Zoning Map, rezoning approximately 20 acres of land at approximately 5204 East, HWY 166, from the AV-3 Zone to the FB Zone, as provided in Exhibit C. **I do so with the following findings:**

Examples findings for denial:

- *Example: The proposal is not adequately supported by the General Plan.*
- *Example: The proposal is not supported by the general public.*
- *Example: The proposal runs contrary to the health, safety, and welfare of the general public.*
- *Example: The area is not yet ready for the proposed changes to be implemented.*
- *[_____ add any other desired findings here _____].*

Exhibits

Exhibit A: Application.

Exhibit B: Current Zone Map.

Exhibit C: Proposed Zone Map.

**Eden Crossing
Rezone Application - Project Narrative
October 2023**

Application Questions

The vision for the proposed zone change and, if known, the proposed development.

Eden Crossing is a proposed commercial, retail, multifamily and single family homesite development in the New Eden area of Ogden Valley. The rezone application is requesting the property be incorporated into the Form Based Zone land use code.

In accordance with the Ogden Valley General Plan, the development will obtain density entitlements via the Transfer of Development Rights (TDR) ordinance. The New Eden area has been identified as a village receiving area. The project consists of 20 acres of flat buildable land supporting approximately 325 units. Examples of the proposed building design is illustrated in the Architectural Exhibit.

Multiple entities will be providing wet utility service to the project. Culinary water is from Eden Water Works, secondary will come from Eden Crossing Public Works Company and sewer will be managed by the Wolf Creek Water and Sewer Improvement District. The transfer of water and sewer to Wolf Creek is aligned through the development as shown in the Utilities Exhibit.

The development will have a walkable, pedestrian friendly design. Pathways for recreational use will be incorporated into and will connect to adjacent properties. A community recreation center for Ogden Valley is being considered on the north end of the project.

How the change is in compliance with the general plan, or if not, the public interest the change is intended to address.

The general plan has identified the Eden Area as a village receiving area for TDRs. Supporting utilities go through the project which is also a key element of the community plan.

Why the present zoning should be changed to allow the rezone.

The street regulating plan of the Form Based Zone supports the land use code change request.

How the change is in the best interest of the public.

The development will provide services to the Ogden Valley community.

The conditions and circumstances in the general area that have changed to warrant the rezone.

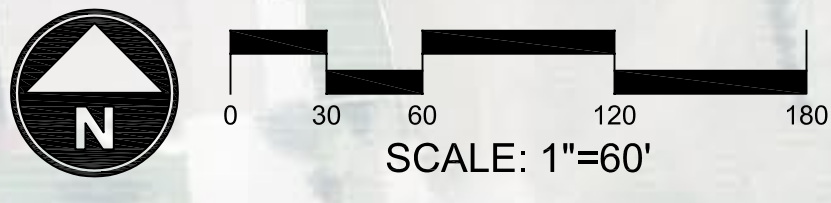
The adopted general plan supports clustered development in identified receiving villages areas.

The reasons or ways the rezone will promote the health, safety and general welfare of the inhabitants of the county.

All county codes and standards will be observed as the project is developed.

LEGEND

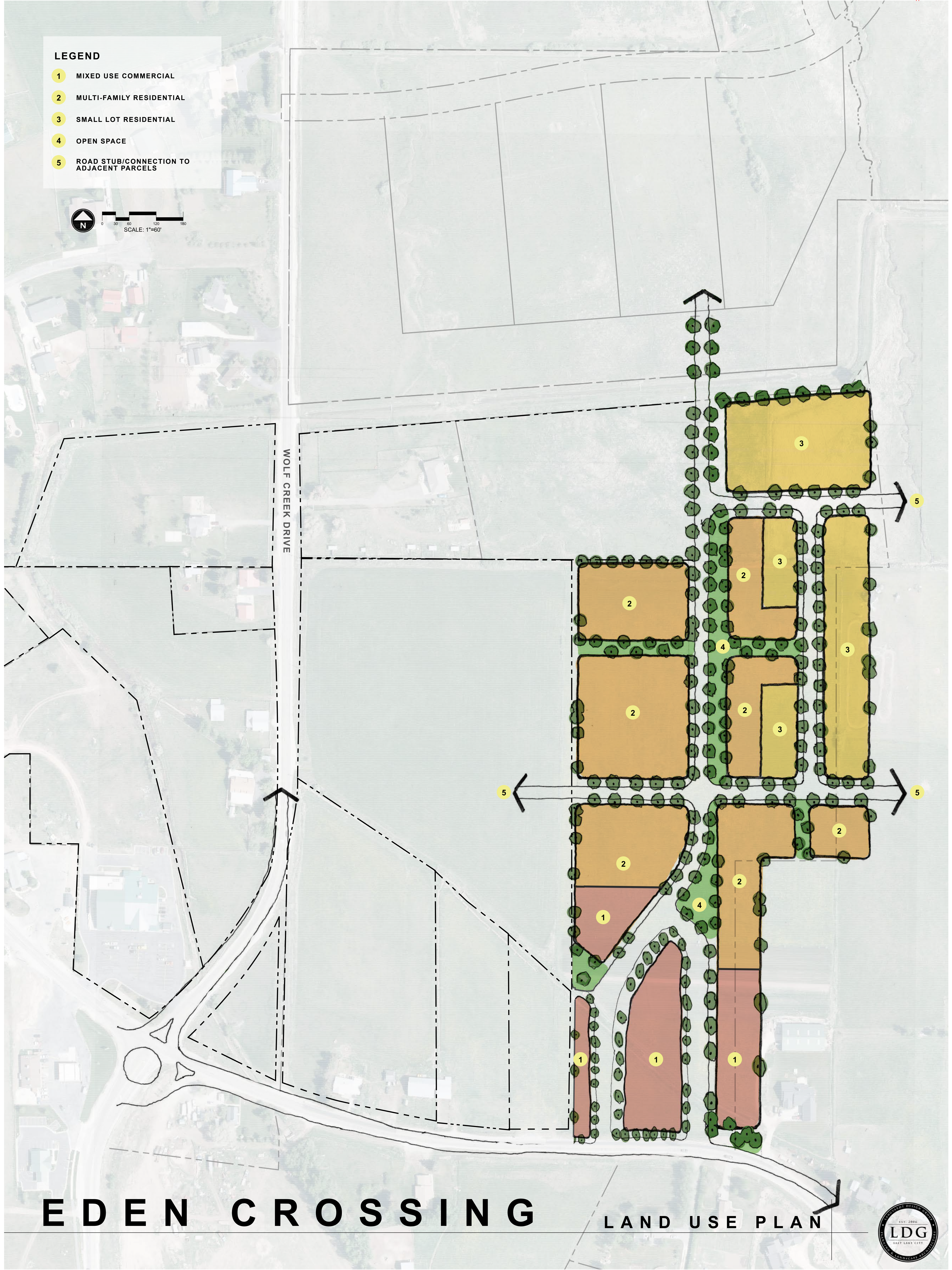
- 1** MIXED USE COMMERCIAL
- 2** MULTI-FAMILY RESIDENTIAL
- 3** SMALL LOT RESIDENTIAL
- 4** OPEN SPACE
- 5** ROAD STUB/CONNECTION TO ADJACENT PARCELS



WOLF CREEK DRIVE

EDEN CROSSING

LAND USE PLAN



EDEN CROSSING

Proposed Street Regulating



Exhibit A: Application

ESTATE LOT
RESIDENTIAL

SMALL LOT
RESIDENTIAL

MULTI-FAMILY
RESIDENTIAL

MIXED-USE
COMMERCIAL

RURAL
RESIDENTIAL

VALLEY
MARKET

MAVERIK

5100 N

1815 N



2500 N

58

EDEN CROSSING

Infrastructure Alignment

Exhibit A: Application

-  CULINARY WATER
-  SEWER



October 28, 2023

Via - rgrover@webercountyutah.gov

Rick Grover
Weber County Planning Director
2380 Washington Blvd., #240
Ogden, Utah 84401

Dear Mr. Grover:

My law firm represents Eden Crossing, LLC ("Applicant") with respect to the development known as Eden Crossing in Eden Utah ("Property"). Presently my clients have applications in to the County for an amendment to the Zoning, and text amendments. Both applications comply with all applicable City Ordinances, and are therefore vested and entitled to approval.

Nevertheless, my client is experiencing unreasonable delays in processing these applications. Accordingly, please consider this letter as the Applicant's formal written request, in accordance with UTAH CODE § 10-9a-509.5(2)(b), that Weber County take final action on my client's applications within 45 days the date of this letter.

Note also that Utah Code requires the City, if it denies these applications, the denial must include the "reasons for denial in writing, on the record." UTAH CODE § 10-9a-509.5(2)(d). If the City believes that some ordinance requirements have not been met, please notify me immediately. Otherwise, please approve my client's application within 45 days, are required by the Utah Code. Thank you for your attention to this matter.

DENTONS DURHAM JONES PINEGAR P.C.



Brent N. Bateman

Figure 1: Current Zoning Map and the Subject Parcel(s).

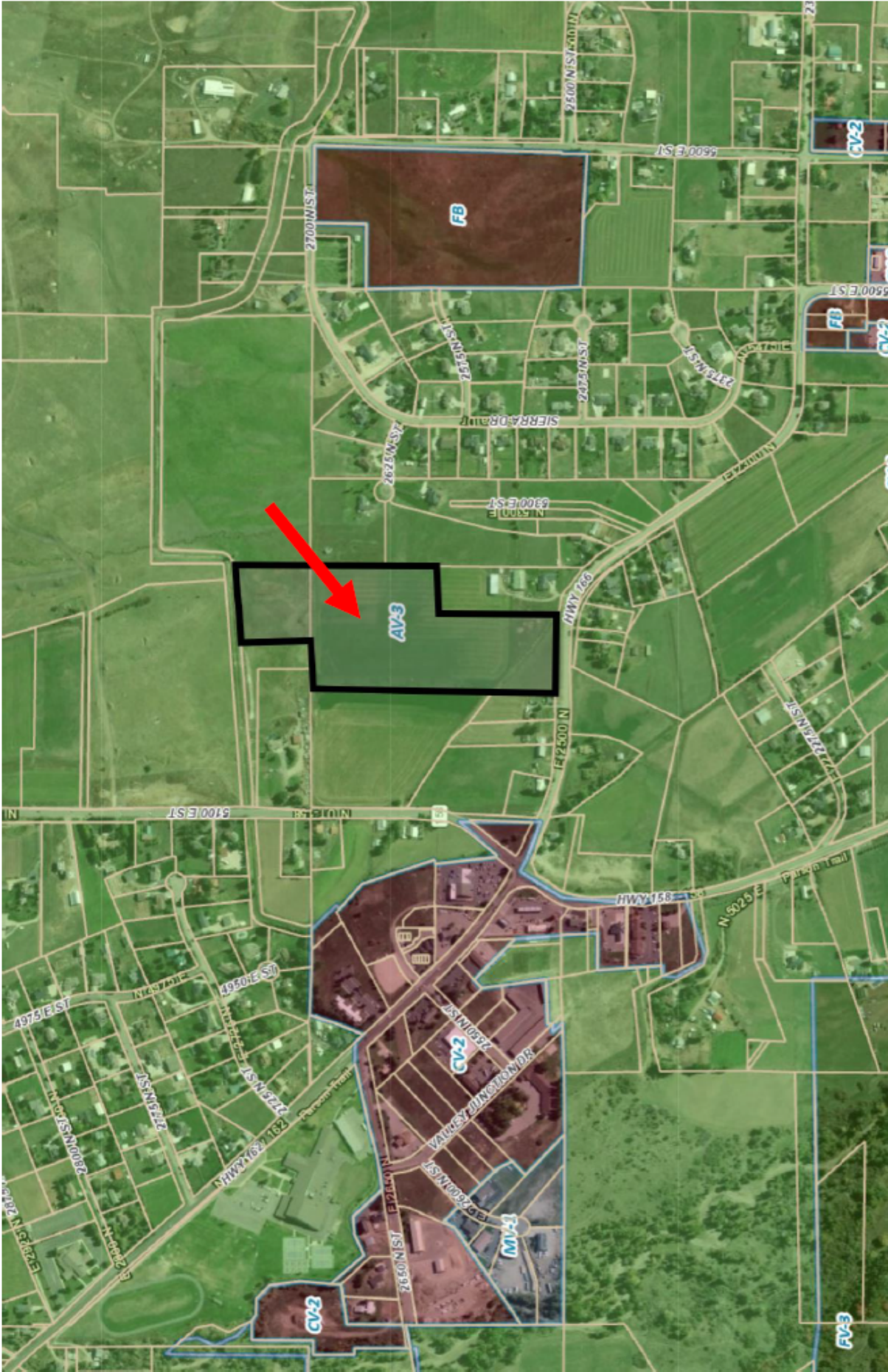


Figure 2: Proposed Zoning Map and the Subject Parcel(s).

